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THE RUSSIAN PEASANT AND AUTOCRACY

I

YEARS ago one could find occasionally in Russian peasant huts pictures of Louis Napoleon, carefully cut out from a daily newspaper or from a weekly and nailed on the wall, perhaps side by side with a cheap chromo of Alexander II, in whose reign serfdom was abolished. But spread more widely than the pictures of Louis Napoleon was a curious tale, simple in its nature but deep in its meaning, After the allied armies had taken Sebastopol and had won the Crimean campaign, the young Tsar Alexander Nikolaevitch, according to the story, sought peace from Louis Napoleon. And to the young Russian tsar the emperor of the French said: Peace you can have, but on one condition: you must solemnly swear to free your own long-suffering Russian people from serfdom and bitter iniquity.

Naive is this tale; but the popular mind was certainly not far astray in connecting the fall of Sebastopol with the abolition of serfdom. The Crimean campaign made it clear to every cultivated Russian, as well as to the more enlightened elements in and around the winter palace, that the empire was so thoroughly incapacitated by its own institutions, based on serfdom, that Russia must either be reorganized or face the consequences of its misrule. Soon after peace was signed, Alexander II, in March, 1856, addressed the nobility of Moscow, and in this address it was officially intimated for the first time that serfdom must be abolished. "It is better," he said, "to abolish serfdom from

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above than wait till it shall abolish itself from below."[1] It was in accordance with this wise prevision that the imperial government officially abolished serfdom on February 19, 1861.

To-day, forty-five years after the emancipation, we still hear throughout the empire the old cry: "Land and liberty." And if it were merely a cry! Cries can be suppressed in Holy Russia. But estates are being pillaged, manors are afire, and the peasantry is becoming an integral part of the nation and is getting ready to answer the bugle-call of the revolution.

There were times when the old governmental wisdom worked well. The recipe was simple: "Russia must be kept frozen, that it may not get putrid."[2] The peasantry—or, to speak more accurately, the ignorance of the peasantry—was regarded as the corner-stone and foundation of the throne, and especial care was taken that this class should not become "contaminated" by West European culture, in fact by any culture. It remained ignorant. Arrayed in uniform the ignorant peasant was called upon to fight for the Manchurian adventure of Emperor Nikolas II, and he died as ignorant of the ends for which he was dying as he was ignorant of those for which he had lived. Is it not a pathetic comment on the tsar's government that Russian soldiers, as prisoners of war, were taught to read and to write Russian by the Japanese?

Yet the notion is widespread that the Russian autocracy is particularly democratic, for in every imperial manifesto addressed to the peasantry the assurance can be found that the peasants are especially near to the heart of the emperor and that their needs are his special care. And until very recently the vast bulk of the peasant body firmly believed that the tsar was with them, but that the officials and the nobility kept the tsar from exercising his good will and bestowing his bounty upon them.

Is there no truth in this legend? It is a part of Russian popular tradition, and like all folklore it is an interpretation of an historical reality, of a political situation antedating the intro-

[1] Materiali k istorii unichtozhenia krepostnago prava v carstvovanii Alexandra II (St. Petersburg, 1860), vol. i, p. 214.

[2] Simkhovitch, "An Interpretation of Autocracy," in *The International Quarterly*, October, 1904, pp. 1–12.

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duction of serfdom. Like so many popular sayings it came down from generation to generation, losing connection with the facts that supported it, generalized in oral transmission, sanctified by time, till it was finally viewed by the good-natured and illiterate peasant as a political axiom.

The origin of this legend unquestionably dates back to the period preceding the establishment of autocracy in Russia. It is an interpretation of the actual policy of the Muscovite grand dukes in the sixteenth century, which consisted in ruthless extermination of the feudal aristocracy. Little love was wasted by the peasantry on their feudal lords, and the bloody extermination of these lords by Ivan the Terrible particularly impressed the popular mind. Each and every ruthless deed was covered by the father of Russian autocracy either by a quotation from the scriptures, or by the word "treason" coupled with a melodramatic appeal to the common people. Ivan's picturesque figure was bound to impress itself upon the people's imagination; he became the hero of many a folksong, in which he was treated on the whole with sympathy. That was the origin of the legend.[1]

Soon enough the peasantry found that the newly created landlord class, "the men of service," were considerably worse than the old feudal aristocracy. But the legend remained, cherished by the government even more than by the people. In recent times, when the imperial government needed an excuse for its existence, a *raison d'être* of autocracy in Russia, it brought forth this very legend of the peculiar closeness of the tsar to his people as a singular God-given national characteristic of Holy Russia, which could not suffer that an institution so foreign as a parliament should stand between the tsar's heart and his people. And the ignorance of the peasantry remained the foundation of the throne.

In the last two or three years of serfdom the old legend was revived. While many a nobleman was opposed to serfdom, the nobility as a class was naturally enough guided by its class interests, and its attitude toward the abolition of serfdom was as

[1] Milyoukov, Russia and its Crisis, pp. 353-355.

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a whole unfriendly. The peasants coming in daily contact with their masters could not help noticing this fact. Rumors became current throughout the peasant world that the tsar was about to give them "land and freedom"; and for three or more years, while the reform measure was being prepared and elaborated, the abolition act was keenly awaited by every peasant throughout the empire. The day came, and the disappointment was bitter. The peasantry of many a place would have preferred serfdom to the status offered them. The "freedom" so feverishly expected, so fervently prayed for, had to be introduced only too often with the help of the military. In the official *Short History of the activity of the Department of the Interior for the twenty-five years 1855–1880*, we read that in the first two years after the publication of the abolition act, from February 19, 1861, to February 19, 1863, the department of the interior had to suppress more than 1100 agrarian riots. So, for instance, on the estate of Count Apraxine in the province of Kazan, the troops were called upon to bring to submission 5000 peasants, killing 55 and wounding 71. On the estate of M. Volkoff in the province of Pensa, the troops had to deal with 10,000 peasants, killing eight and wounding 26. How many tens of thousands of peasants were flogged and clubbed into "freedom" God alone knows. So, for instance, in M. Volkoff's village, to which we have just referred, 28 men were sent to forced labor in Siberia after receiving from 400 to 700 lashes with *Spitzruten*,[1] 80 men were exiled to Siberia after receiving 200 to 400 lashes with *Spitzruten*, three were sent to a penitentiary, three sentenced to punitive military service, 58 were flogged with rods without any further punishment.[2]

Ominous indeed was this forcible introduction of "freedom." For years the peasant was sure of the coming of that freedom which the tsar had announced. What was given to him as freedom, the popular mind reasoned, could not possibly be the

[1] This punishment was "running the gauntlet," or rather walking it. The offender was led between a double line of men armed with stout sticks and beaten as he passed.

[2] V. K. Semevski, Krepostnoie pravo i krestianskaia reforma v proizvedeniakh M. E. Saltikova, pp. 23, 24.

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"true freedom," the tsar's freedom. The true freedom must have been withheld from the people by the nobility and the official class. And again the popular mind was not so far from the truth. True freedom was withheld from the people by the nobility and the officials, but the tsar was the first noble and the first official of his land.

II

The fundamental principles of the great reform act were, first, that the person of the serf was to be freed without compensation, and secondly, that the freed serf was to receive land allotments sufficient to provide for his needs and to allow him to meet his obligations towards the state. For the land allotted to him he was ultimately to pay. The government undertook to pay the former landlord, collecting the amount from the peasant but distributing the payment over a period of forty-nine years. The interests of the state of course required that the peasantry should be put on a sound economic footing. But on the other hand it is to be remembered, that a "state" is not an abstract idea, and that in reality all the agents of the state—*i. e.*, all those who held official positions, central or local, all those who were called upon to draft the abolition law and all those who were afterwards commissioned to carry out the law and put it into practice —belonged to the nobility, the class of serf-owing landlords.

Of course the Russian nobility did not represent one solid, homogeneous, selfish body. There were among them most unselfish individuals, some of whom were men of influence; there were others who, while on the whole favoring their own class, were broadminded enough to have the interests of the state and those of the peasantry at heart too. Such men were favored by the tsar. Many of them had a great deal to do with the work of the emancipation. But the vast bulk of the nobility cared for nothing but its own interests and was striving either to checkmate the reform or so to frame it that the landlord and not the peasant should be benefited by the new law.

The final draft of the abolition law was a compromise between these different tendencies within the higher bureaucracy, and the interests of the nobility were only too well taken care of.

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The abolition act itself is too complicated and too technical to be of interest to the American reader.[1] In brief this act and the supplementary laws established the following situation:

The serf of yesterday was not made free, but put in a transitional state. For the first two years the peasants were "to remain in their former obedience to their landlords and fulfil their former obligations without dispute." It should be remembered that within these first two years, when the peasants were to remain in absolute obedience to their landlords, the final arrangements and settlements of land matters between the landlords and the peasantry were to take place.

After these two years the peasants were put into "temporarily obligatory" relations, which were to last so long as the landlords were not paid in full for the land allotments of the peasantry. While the peasants were in this "temporarily obligatory" state, the landlord was to have the right of police, the right to dismiss the elected officers of the peasant community, the right of vetoing all decisions of the peasant meeting, the right of expelling any peasant whom he regarded as a bad influence. All his rights in part or as a whole the landlord could transfer to any other person by giving him a power of attorney.[2]

The peasant received the permanent use of his homestead and a certain allotment of arable land and pasture, for which he was to pay a certain rent to the landlord. The maximum and minimum size of the land allotment and the rent for the payments were fixed by law, but room was left for voluntary arrangements between peasant and landlord. By arrangements with the peasants the landlord could also grant them one-fourth of the land norm as a gift without any payment on the peasant's part. The payments for the land allotments were largely fixed on the basis of what the peasants paid in the days of serfdom.[3] In

[1] For a brief account of the abolition work see Simkhovitch, "Die Bauernbefreiung in Russland," in Conrad's Handwörterbuch für Staatswissenschaften, 2d ed., vol. ii, pp. 399–423.

[2] Druzhinin, Vouridicheskoe polozhenie krestian (St. Petersburg, 1897), p. 59.

[3] See Professor Ivanyoukoff, Padenie krepostnago prava (St. Petersburg, 1882), p. 289. Also Simkhovitch, Die Feldgemeinschaft in Russland (Jena, 1898), pp. 239–246.

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addition the following principle was introduced: the smaller the allotment, the higher the rate of payment. It was an application of the marginal theory of value. It was claimed that the peasant could use the first dessiatine of land to greater advantage than the second, that he would exploit the second dessiatine more thoroughly than the third, and so on. Accordingly the payments on the first dessiatines were higher than on the subsequent ones. The result was that the less land the peasant had, *i. e.* the poorer he was, the higher was his rate of payment. The difference was very substantial, varying from 51.5 per cent to 88.1 per cent.[1]

It is proper to consider as a part of the abolition act the great bond issue, through which the government paid off the landlords, taking over the peasant indebtedness, in return for which the peasant was to pay a redemption tax for forty-nine years. This and all other taxes were collected by the government from the village commune, the members of which were severally and jointly responsible for the taxes.

Still more than by the law itself was the nobility favored by its enforcement and execution. The peasantry was cheated in all sorts of petty ways with the connivance and help of the local administration, and the allotments were as a rule so arranged as to make the peasantry dependent upon the landlord's estate.

Small wonder therefore that it took military force to make the peasant recognize the newly granted freedom. His landholdings were diminished, his payments if anything increased, and as to his freedom of person, it is hardly fair to blame him for not perceiving it. In the past he could not leave his place without permission of his master; now he could not leave it without the permission of the authorities. He was given land, which was not his own, but which belonged to the village community. He could not say to the authorities: "Keep your land and let me go." Too many would have liked to do that, if they could! The taxes on the land exceeded two, three, four, six and occasionally ten times all it could possibly pro-

[1] Khodski, Zemlia i zemledelec, vol. ii, p. 29.

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duce. He was under obligation to take the land, and he could leave it only on the condition that he was to pay the taxes. In the past he was subject to personal violence on the part of the landlord, who could flog him if he saw fit. Now he was flogged on the decision of the village court or, without any decision, at pleasure or leisure of any petty police official.

Later, in 1889, Alexander III created a new body of officials, who combined absolute judicial and administrative powers. These were the *zemskie nachalniki*, the rural commanders. They were appointed from the local landlord class without any educational qualifications. These officials had absolute power over the peasantry in their districts. They flogged the peasants for not taking off their hats, for not turning out on the road, for talking loud and in fact for anything they pleased. Mr. Beer, a *zemski nachalnik* himself, published commentaries on the law of 1889 which became the standard guide of his fellow commanders. In these commentaries we read the following recommendation, intended to prevent the occasional chopping of fire wood in the landlords' forests:

> Nobody shall leave the village at night without presenting himself personally to the selectman (*selski starosta*) or to one acting in his place. Nobody shall leave the village at night at all, or in the day time for more than twenty-four hours without reporting to the selectman where he is going and for what purpose. For any departure without permission the guilty one shall be punished. Any one who departs at night is to be reported in the morning by the watchmen and sentinels to the selectman, who is to inquire into the matter and punish disobedience, even if it be proven that there was nothing suspicious or improper in the departure.[1]

Does such a commentary need any further comment?

When therefore, four years ago, the government organized the great agricultural inquest, with 400 local sub-committees, in the proceedings of which 11,000 men took part, the chief recommendation of these committees was that

> in order to be economically active and enterprising, the rural popula-

[1] Beer, Kommentarii k uchrezhdeniam 12 Yulya 1889 g., pp. 69, 70.

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tion must secure for itself certain rights, which would guarantee its work against encroachments, and it must also know that it is entitled to defend its rights.[1]

III

The defects of the abolition law and the effects of bureaucratic oppression became evident as early as in the sixties of the past century. The official statistics had to acknowledge the sad facts. Commissions and committees to investigate and to deliberate *etc.* were appointed. And while they accomplished nothing of practical benefit to the peasantry, valuable and interesting statistical and other material has been published from time to time by such commissions and other organs of the government.

Basing his work on the reports of the commission for inquiry into the agricultural situation, on the publications of the tax commission and on some other official statistical publications, Professor Y. Janson published in 1877 his remarkable book on peasant land allotments and taxes. This has been universally recognized as a most accurate piece of investigation. We shall therefore quote a few data from it. Professor Janson tells us that wherever an accurate estimate has been made of the productivity of the land allotments, the taxes exceeded the productivity. For instance in the province of Novgorod the peasantry can be divided into four groups, with the following relations of land-tax to land-income:

The former crown peasants	100 per cent.
The former appanage peasants	161 per cent.
The former private peasants	180 per cent.
Peasants in "temporarily obligatory" relations	210 per cent.

In certain districts the tax occasionally amounts to 565 per cent of the land income. According to the calculations of the St. Petersburg zemstvo the relation of the tax and redemption

[1] I take this quotation from Professor Milyoukov's excellent book, Russia and its Crisis, 1905. "Instead of that," adds Prof. Milyoukov, p. 447, "the peasant is now powerless against the whims of the local authorities; his economic activity is under strict control; his person, his property and his family are dependent upon the arbitrary decisions of the mir; he may at any time be arrested and flogged."

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payments to the land income varies from 128 to 150.5 per cent. In the province of Moscow it averages 205 per cent; in Tver, 244 to 252 per cent; in Smolensk, 166 to 220 per cent; in Kostroma, 146 to 240 per cent; in Pskoff, 130 to 213 per cent; in Vladimir, 168 to 276 per cent; in Viatka, 97 to 200 per cent, *etc.*[1]

A tax on land that exceeds the income of the land is an absurdity, one would say. Certainly, but what was actually intended was a modified form of serfdom. The peasant became the serf of the state; the state took from him all the land could possibly produce and, besides, a very large share of what the peasant could gain outside by plying a trade or by hiring himself out. The land tax therefore swallowed the major part of the wages of the peasant as a factory hand, blacksmith, river driver, wood-chopper, farm hand and what not.

The zemstvo statistical bureau of the province of Novgorod gives the following detailed statistical account of the total income of the peasants of that province and of the relation of their income to their taxes. One-third of all the men and two-thirds of all the women of the peasantry have to work on the farm the whole year round and therefore bring in no outside income. The sum total of the outside earnings of the peasantry of the province amounts to 8,855,100 rubles, and is brought in by the following earning groups:

One-third of all male adults (63,700) working out the whole year	3,184,950
One-half of the minors and one-third of the female adults working out the whole year	2,275,850
One-third of the male adults and one-half of the minors working out during the winter	1,228,500
Winter work of the horses	2,165,800
	8,855,100

The food deficit which was occasioned by the insufficiency of the land allotments, and which had to be covered from the outside income, amounted to over three million rubles. Taxes

[1] Yanson, Opyt statisticheskago izsledovania o krestianskikh nadelakh i platezhakh (2d ed, St. Petersburg, 1881), pp. 35, 36.

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amounted to 3,278,136 rubles. There remains about two and a-half millions, *i. e.* about 12 rubles 65 kopeks in each peasant household, out of which amount all the necessities of life, such as salt, clothing, shoes, *etc.*, as well as the repairs and purchase of agricultural implements, must be covered.

The situation in many provinces was much worse and in few better.[1] On the whole it was such that Professor Yanson comes to the conclusion that the peasantry was economically better off during the period of serfdom.[2]

If that was the situation created by the reform, and if the taxes were actually collected, *i. e.* clubbed out of the peasant, then it was obvious that the peasant class in Russia was doomed. If the peasant's horse and cow were to be sold for tax arrears, then it was obvious that the peasant's situation was bound to become more desperate from year to year. Yet it is doubtful if, in the first decade after the abolition act, anybody thought that the peasantry would be brought by the tsar's government to the point of physical deterioration, of perpetual famine, of slow death by starvation. That, however, is precisely what his majesty's government has accomplished.

On November 16, 1901, a new agricultural investigating commission was appointed by the tsar. This commission published four volumes of statistical data relating to the welfare of the peasantry and allied subjects. Russian official data generally paint the situation in a more rosy light than the facts warrant. But let us give them in this case the benefit of the doubt and assume that the situation is not worse than that acknowledged by the governmental commission. One of the chapters of the commission's report opens as follows:

> The quantity of farm stock is one of the chief indices of the welfare of the population in agricultural countries. Without farm stock agriculture is impossible even in countries where agricultural machines are generally used; and this is still more true in our fatherland where agricultural machinery has not yet found such general application. The farm stock statistics are therefore very significant for the explanation of the economic status of our peasantry. The quantity of such

[1] *Ibid.*, pp. 38–40.

[2] *Ibid.*, pp. 73–75.

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stock indicates the state of agriculture as well as the welfare of the agricultural population. Besides its service as working power, it counteracts the natural exhaustion of the soil, it serves as material for food, for clothing, for harness, *etc.*, and thus becomes of cumulative importance in the whole national economy.[1]

The accompanying tables show us how well the Russian peasantry is supplied with farm stock.

TABLE I[2]

Regions	Years	Farm Stock			Farm Horses	
		Per 1000 dessiatines farm land	Per 1000 souls of population	Per 1000 farms	Per 1000 souls of population	Per 1000 farms
1. Northern	1870	344	1,051	6,170	197	1,158
	1880	357	965	5,669	181	1,062
	1890	341	950	5,589	199	1,169
	1900	306	925	5,407	145	846
2. North-Eastern	1870	607	1,364	8,371	262	1,608
	1880	560	1,182	7,213	244	1,488
	1890	456	1,043	6,408	223	1,372
	1900	492	1,144	6,902	189	1,145

[1] Materiali visochaishe uchrezhdennoi 16 Noiabria 1901 g. kommissii, part iii (St. Petersburg, 1903), p. 209.

[2] *Ibid.* part i, pp. 210, 221. In giving the data I follow the governmental publication and subdivide Russia into "regions." It may perhaps be well to point out which provinces are included in each region:

Northern provinces: Arkhangelsk, Oloneck, Vologda, St. Petersburg, Novgorod, Pskoff.

North-Eastern provinces: Viatka, Perm.

Eastern provinces: Ufa, Orenburg, Samara.

South-Eastern provinces: Astrakhan, Territory of the Don Kosaks.

Central Volga provinces: Nishni-Novgorod, Kazan, Simbirsk.

Central agricultural provinces:

(a) *The Eastern group:* Penza, Saratoff, Tamboff, Voronesh, Kharkoff.

(b) *The Western group:* Kursk, Orel, Tula, Ryazan.

Central industrial provinces: Vladimir, Kostroma, Yaroslavl, Tver, Moscow, Kaluga, Smolensk.

Baltic provinces: Curland, Livonia, Estonia.

North-Western provinces: Vitebsk, Mohilev, Minsk, Vilno, Kovno, Grodno.

South-Western provinces: Volhynia, Kieff, Podolia.

Ruthenian provinces: Poltava, Tchernigov.

Bessarabian provinces: Yekaterinoslav, Tauris, Kherson, Bessarabia.

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TABLE I—*Continued.*

Regions	Years	Farm Stock			Farm Horse	
		per 1000 dessiatines farm land	per 1000 souls of population	per 1000 farms	per 1000 souls of population	per 1000 farms
3. Eastern	1870	295	1,829	11,260	376	2,315
	1880	294	1,551	9,558	349	2,153
	1890	299	1,316	8,103	269	1,657
	1900	357	1,357	8,360	251	1,549
4. South-Eastern	1870	701	4,018	22,660	219	1,235
	1880	692	3,172	17,815	108	945
	1890	686	2,697	15,143	151	852
	1900	635	2,223	12,396	132	738
5. Central Volga	1870	666	1,134	6,761	213	1,270
	1880	630	932	5,563	177	1,055
	1890	645	889	5,325	154	977
	1900	581	748	4,415	134	796
6. Central Agricultural						
(a) Eastern group	1870	972	1,638	11,221	236	1,616
	1880	841	1,210	8,289	179	1,228
	1890	892	1,182	8,105	183	1,259
	1900	825	1,040	7,011	137	923
(b) Western group	1870	872	1,147	7,828	224	1,526
	1880	919	1,045	7,129	192	1,313
	1890	895	948	6,469	193	1,314
	1900	848	834	5,680	124	843
7. Central Industrial	1870	473	909	5,386	195	1,156
	1880	489	873	5,176	177	1,051
	1890	469	823	4,887	179	1,062
	1900	487	806	4,782	139	825
8. Baltic	1870	1863	1,394	10,586	140	1,128
	1880	1155	1,182	8,983	153	1,160
	1890	980	1,059	8,011	151	1,148
	1900	1001	1,154	8,796	102	774
9. North-Western	1870	798	1,469	11,710	190	1,518
	1880	941	1,369	10,975	195	1,563
	1890	912	1,220	9,690	180	1,433
	1900	859	1,105	8,788	126	1,000
10. South-Western	1870	1035	1,193	8,312	118	820
	1880	1110	1,056	7,363	152	1,059
	1890	1153	1,925	6,999	174	1,252
	1900	998	764	5,357	116	818
11. Ruthenian	1870	1116	1,343	7,925	128	759
	1880	1150	1,156	6,835	139	821
	1890	1066	1,114	6,582	147	869
	1900	851	875	5,202	116	693
12. Bessarabian	1870	964	2,561	14,846	102	590
	1880	917	1,983	11,544	117	680
	1890	788	1,586	9,209	111	462
	1900	651	1,086	6,070	148	828
In the 50 provinces of European Russia	1870	664	1,456	9,329	169	1,329
	1880	655	1,238	8,345	183	1,220
	1890	631	1,135	7,294	187	1,180
	1900	602	1,026	6,474	145	920

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TABLE II.[1]

REGIONS	YEARS	PERCENTAGE OF FARMS			
		WITHOUT HORSES	WITH ONE HORSE	WITH TWO HORSES	WITH THREE OR MORE HORSES
1. Northern	1882	18.			
	1888–91	16.3	44.2	24.7	14.8
	1893–96	18.0	47.5	23.7	10.8
2. North-Eastern	1882	12.7			
	1888–91	18.1	34.7	21.9	25.3
	1893–96				
3. Eastern	1882	12.8			
	1888–91	18.2	24.6	18 3	38.9
	1893–96	24.7	25.8	17.7	31.8
4. South-Eastern	1882	29.8			
	1888–91	41.5	29.1	16.8	12.6
	1893–96	38.5	28.9	16.9	15.7
5. Central Volga	1882	22.7			
	1888–91	27.6	35.5	21.0	15.9
	1893–96	33.6	39.3	17.6	9.5
6. Central Agricultural					
(a) Eastern group.	1882	27.1			
	1888–91	28.1	27.9	19.9	24.1
	1893–96	35.3	32.4	17.5	14.8
(b) Western group.	1882	23.1			
	1888–91	23.4	24.1	22.3	30.2
	1893–96	29.4	29.5	21.1	20.0
7. Central Industrial	1882	22.5			
	1888–91	22.0	41.5	21.7	14.8
	1893–96	24.4	44.0	20.0	11.6
8. Baltic	1882				
	1888–91	7.5	32.8	21.3	38.4
	1893–96	8.1	33.6	22.0	36.3
9. North-Western	1882	17.9			
	1888–91	16.6	37.9	24.1	21.4
	1893–96	16.5	41.1	24.2	18.2
10. South-Western	1882	50.8			
	1888–91	51.0	5.1	24.6	19.3
	1893–96	55.1	5.4	24.0	15.5
11. Ruthenian	1882	46.4			
	1888–91	44.0	22.4	16.6	17.0
	1893–96	45.0	24.2	16.9	13.9
12. Bessarabian	1882	39.6			
	1888–91	39.7	9.6	30.2	20.5
	1891–96	34.6	7.9	30.1	27.4
Throughout the 50 provinces of European-Russia	1882	26.9			
	1888–91	27.8	28.6	21.9	21.7
	1891–96	32.2	29.1	21.2	17.5

We see that there has been a decrease of live stock on the peasants' farms. This decrease is ominously large; it amounts

[1] Materiali, *etc.*, part i, p. 211.

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to 30.8 per cent within thirty years. In 1870 there were 9329 heads on each 1000 farms; in 1900, there were only 6474.[1] Just as great is the decrease of farm horses. One thousand farms had in 1870, 1329 horses; in 1900, 920.[2] Still greater is the decrease of pigs and sheep and other small stock on Russian farms. There were, in 1870, 5469 heads on each 1000 farms; in 1900, only 3459, a decrease of 36.8 per cent. Our official documents acknowledge the fact of the gradual decrease of farm stock, greatly diminishing the economic power of the population. "The number of farms without horses increased, as did the number of farms with an insufficient supply of horses. At the same time we see a decrease in the number of farms with two or three horses, *i. e.*, in the more stable and better provided farms."[3] Under Russian farming conditions, a farm without horses is no more a farm than a knife without a blade is a knife. Now we have seen, from the incomplete statistical data which the government gives us, that the percentage of horseless farms throughout Russia increased in the short period of 1882–1896 from 26.9 to 32.2.

More considerable than the decrease in farm stock is the diminution in the land allotments of the Russian peasantry. In the days of serfdom, the law required that the serfs should work but three days for their master. This law was not always enforced; the peasantry as a rule worked more than half of their time on the landlords' fields. The allotments of the peasantry in the days of serfdom were barely large enough to keep them alive. When serfdom was abolished the land allotments of the peasantry were considerably decreased. The village community, with its periodical land divisions and allotments, and the government's policy of keeping the surplus population on the land, for fear of creating a politically enlightened city proletariat, had the natural effect of decreasing the already insufficient land allotments in proportion to the natural increase of population.

The primary care of the Russian government has been the preservation of absolutism, and all measures, economic or

[1] Materiali, *etc.*, part iii, p. 212.

[2] *Ibid.*, part iii, p. 213.

[3] *Ibid.*, part iii, p. 216.

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educational, have been controlled by this consideration. The illiteracy of the peasants was treasured as the most precious jewel in the imperial crown; and as to the village community, Count Kisseleff, who for twenty years was engaged in shaping the destinies of Russia's peasantry, frankly admitted that

> the periodical land divisions, which are so pernicious for any far-reaching farming improvement, have their bright side in not permitting the development of a proletariat. The village community, therefore, is a problem, the solution of which lies outside of purely economic considerations.[1]

And Count Kisseleff acted accordingly. He forced the village community upon not less than 533,201 peasants who had never known this institution before.[2] M. Yermoloff, who till recently was the secretary of agriculture, has himself expressed the opinion that the peasant's right to land allotment in the village community system means, with the constantly decreasing size of the allotment, only the right to die of starvation.

The table on the following page shows the average decrease of the peasant land allotments in the fifty provinces of European Russia.

Small as these peasant land holdings are, they might have been sufficient in a country where education, self-reliance and honest work are encouraged. But not so in the empire of the tsar, where almost every educated man is suspected as a political criminal and where the education of the peasant has been systematically suppressed. About the suppression of education and the arrest of the mental development of the peasantry, about the government's almost insane craving for the preservation of ignorance, volumes could be written. Here a single characteristic fact must suffice us. Russia's censorship has excluded from general reading books like Spencer's works, Bryce's *American Commonwealth* and Fyffe's *History of Europe*. No books have been printed without the authorization of the

[1] Zablocki-Dessyatkovski, Count P. D. Kisseleff and his times (St. Petersburg, 1882), vol. ii, p. 199.

[2] Simkhovitch, Die Feldgemeinschaft in Russland (Jena, 1898), pp. 70, 71.

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TABLE III[1]

REGIONS	NUMBER DESSIATINES TO EACH MALE PEASANT		
	1860	1880	1900
1. Northern	7.6	6.1	4.7
2. North-Eastern	8.1	6.1	4.6
3. Eastern	9.5	6.5	4.8
4. South-Eastern	8.4	5.2	3.5
5. Central Volga	4.0	3.1	2.4
6. Central Agricultural.			
(a) Eastern group	4.1	3.0	2.2
(b) Western group	3.0	2.2	1.7
7. Central Industrial.	4.0	3.3	2.6
8. Baltic.	3.7	2.9	2.4
9. North-Western	5.0	3.3	2.2
10. South-Western.	2.9	2.1	1.4
11. Ruthenian.	3.3	2.5	1.7
12. Bessarabian	6.2	4.0	2.5
Throughout the 50 provinces of European Russia	4.8	3.5	2.6

censor. Of books permitted by the censor and actually on sale there are about 90,000. But of these books only about 2500 are allowed to be placed in village libraries, *i. e.*, about three per cent of the books admitted to general circulation.[2]

The constant moral, physical and economic oppression of the reigning bureaucracy has left the people no chance for progress and every chance for starvation. And the Russian people is starving. The statistical publications of the commission appointed November 16, 1901, to which I have so frequently referred, give figures which are supposed to show in how far the productivity of the peasant land is sufficient or deficient for feeding the peasant population and the farm horses, assuming that the peasant pays no taxes. Since the Russian peasant lives almost entirely on a vegetarian diet, it is estimated that he consumes in a year 20 *pud* of field products, and each farm horse is allowed 40 *pud* of oats. On this basis we find the following local deficits and surpluses:

[1] Materiali, *etc.*, part i, pp. 78, 79.

[2] See Milyoukov, Russia and its Crisis, p. 202.

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TABLE IV[1]

REGION	FIELD PRODUCTS PER SOUL OF POPULATION			OATS PER FARM-HORSE		
	TOTAL (in pud)	OVER (+) OR UNDER (—) THE NORM OF 20 PUD		TOTAL (in pud)	OVER (+) OR UNDER (—) THE NORM OF 40 PUD	
		(in pud)	(in percentage)		(in pud)	(in percentage)
Northern	9.7	—10.3	—51.5	27.5	—12.5	—31
North-Eastern	15.9	— 4.1	—20.5	46.0	+ 6.0	+15
Eastern	25.3	+ 5.3	+26.5	20.1	—19.9	—50
South-Eastern	24.5	+ 4.5	+22.5	11.4	—28.6	—72
Central Volga	15.8	— 4.2	—21.0	33.6	— 6.4	—16
Central Agricultural.						
(a) Eastern Group	17.7	— 2.3	—11.5	21.3	—18.7	—47
(b) Western Group	12.0	— 8.0	—40.0	28.5	—11.5	—29
Central Industrial	10.8	— 9.2	—46.0	25.4	—14.6	—37
Baltic	15.5	— 4.5	—22.5	34.2	— 5.8	—15
North-Western	12.4	— 7.6	—38.0	17.6	—22.4	—56
South-Western	13.7	— 6.3	—31.5	22.3	—17.7	—44
Ruthenian	13.5	— 6.5	—32.5	12.1	—27.9	—70
Bessarabian	37.8	+17.8	+89.0	5.8	—34.2	—86
Throughout the 50 provinces of European Russia	16.6	— 3.4	—17.0	23.6	—16.4	—41

These data show the most curious anomaly ever known in the economy of any country. Russia's rural, agricultural population is not a seller but a buyer of agricultural products.

A most thorough and admirable investigation undertaken in the nineties,[2] in which the allowances for food and fodder were smaller than in the recent governmental publication, showed the Russian peasantry divided into three groups. The first group, which had not sufficient grain for subsistence, numbered 45,358,078 peasants, or 70.7 per cent of the peasantry. The second, which had enough grain for subsistence but not enough for fodder, numbered 13,083,410 or 20.4 per cent. The third, which had a surplus in grain for both purposes, numbered 5,715,513 or 8.9 per cent.

It must be borne in mind that these data refer simply to the

[1] Materiali, *etc.*, part i, p. 89, part iii, pp. 164, 165.

[2] Tchuproff and Posnikoff, Vlianie urozhaev i khlebnikh cen. vol. i, pp. vi–ix, 1–96.

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productivity of the peasant land in relation to the physiological necessities of the peasant. But before feeding himself and his horse the peasant is called upon to feed the state. The peasant is the chief taxpayer of the state, and his majesty's government has been fed, not on any surplus of oats or grain, but on the life and blood of the Russian peasant. Under these circumstances it cannot surprise us to learn that the peasant class is physically degenerating and deteriorating from year to year. This deterioration is indicated by governmental statistics showing the number of those freed from military service on physical grounds. In Russia, as the reader doubtless knows, every male citizen twenty-one years old is subject to military service, unless rejected on account of disease, insufficient height or other physical defect. Inasmuch, however, as the army has grown more rapidly than the country's population, men who would have been rejected some years ago are now pressed into service. It follows that the increase of the percentage of the rejected does not fully express the people's physical deterioration; the situation is worse than the figures indicate, although these are gruesome enough.

TABLE V[1]

PERCENTAGE OF RECRUITS REJECTED FOR PHYSICAL DEFECTS

Provinces	1874–83	1884–93	1894–01	1874–83	1884–93	1894–01
Northern				6.9	9.4	12.7
Arkhangelsk	7.8	8.4	9.2			
Oloneck	6.4	6.0	7.7			
Vologda	5.8	12.2	16.5			
St. Petersburg	10.7	13.2	15.5			
Novgorod	6.4	6.4	9.1			
Pskoff	5.0	7.6	12.4			
North-Eastern				6.6	9.2	9.6
Viatka	5.1	10.4	10.2			
Perm	8.2	7.8	8.8			
Eastern				5.7	8.6	10.8
Ufa	7.8	12.1	13.0			
Orenburg	5.8	6.4	10.5			
Samara	4.1	6.7	8.9			
South-Eastern				4.1	4.7	6.9
Astrakhan	3.9	4.7	7.9			
Territory of the Don-Kosaks	4.4	4.7	6.5			

[1] Materiali, *etc.*, vol. i, pp. 27–33.

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TABLE V—*Continued*

PROVINCES	1874–83	1884–93	1894–01	1874–83	1884–93	1894–01
Central Volga				5.8	6.2	10.2
Nizhni-Novgorod	4.4	5.2	5.3			
Kazan	7.5	6.4	14.0			
Simbirsk	4.7	6.7	9.4			
Central Agricultural.						
Eastern group				6.3	6.8	9.0
Penza	4.9	5.3	8.2			
Saratoff	5.8	5.8	7.6			
Tomhoff	6.1	7.0	8.1			
Voronezh	6.7	8.0	11.0			
Kharkoff	7.7	7.0	9.5			
Western group				5.3	6.8	10.4
Kursk	5.7	5.6	8.7			
Orel	4.9	6.5	10.4			
Tula	4.8	6.6	11.1			
Ryazan	5.7	8.8	12.2			
Central Industrial				5.8	8.8	10.4
Vladimir	4.7	5.2	8.4			
Kostroma	6.8	12.1	12.9			
Yaroslav	4.7	9.2	13.5			
Tver	6.1	7.9	10.7			
Moscow	7.1	11.9	11.1			
Kaluga	6.6	7.7	5.9			
Smolensk	4.1	7.2	12.2			
Baltic				10.1	9.3	11.7
Curland	7.3	9.3	11.8			
Livonia	10.6	9.0	12.7			
Esthonia	13.4	10.1	8.2			
North-Western				7.5	6.9	9.5
Vitebsk	9.7	5.6	8.5			
Mohilev	7.8	9.1	11.6			
Minsk	7.9	6.7	7.8			
Vilno	6.8	6.8	10.2			
Kovno	8.9	8.8	11.5			
Grodno	4.1	4.5	8.1			
South-Western				7.0	8.3	11.0
Volhynia	8.1	10.7	10.4			
Kieff	6.2	8.0	11.8			
Podolia	6.8	6.1	10.8			
Ruthenian				7.2	8.5	13.7
Poltava	7.2	8.7	14.1			
Tchernigoff	7.2	8.3	13.2			
Bessarabian				6.2	6.4	8.9
Ekaterinoslav	5.4	6.1	11.0			
Tauris	6.6	5.7	7.2			
Kherson	6.1	7.1	7.9			
Bessarabia	7.0	6.7	9.0			
Throughout the 50 provinces of European Russia	6.4	7.7	10.3	6.4	7.7	10.3

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IV.

The Russian peasant has become a serf of the state. This is not a figure of speech. The local agricultural committees appointed by the government did not hesitate to point out this fact in discussing the legal disabilities of the peasantry and the taxes resting upon the peasant class. Especially clearly and forcibly did the district committees of Balashov and Borovitchi express themselves. The excessive property tax cannot be covered by the income from agriculture, and it is therefore shifted upon the person of the peasant. Then come the specific "personal services" (*naturalnia povinnosti*) consisting in personal work and in furnishing horses at the command of the local authorities.[1]

The direct taxes by no means represent the whole amount paid by the peasant to the treasury; where the direct taxes stop, the indirect taxes—excise taxes and the protective tariff—begin and put their finishing touches on the peasant budget.

Let us take a minutely itemized budget of a peasant household. The total yearly budget amounts to 390 rubles and 21 kopeks. In this budget will be found the following items:

Supplies	*Cost*	*Including taxes*
Vodka	29 rubles 10 kopeks	21 rubles
Sugar	26 " 86 "	7 "
Tea	21 " 11 "	10 " 40 kopeks
Cotton goods	10 " 89 "	3 " 80 "
Cloth	6 " 40 "	?
Kerosene oil	4 " 51 "	1 " 50 "
Tobacco	1 " 68 "	30 "
Matches	65 "	31 "
	101 rubles 20 kopeks	44 rubles 21 kopeks

In spending 101 rubles and 20 kopeks the peasant pays 44 rubles and 21 kopeks in indirect taxes. This amount does not represent the total amount of indirect taxation paid by the peasant household, since it is impossible in the nature of the case to analyze some of the entries.[2]

[1] I. M. Strakhovski, Krestianski vopros, in Nuzhdi derevni, vol. i, p. 115.

[2] Annenski in Nuzhdi derevni, vol. ii, p. 559.

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But the peasant has not only become a serf of the state; he has remained in economic dependence on the landlord. "Freed" with insufficient allotments of land, overburdened with taxes, he was tied to his land. Migration was suppressed; the colonization of Siberia and other regions was practically prohibited till very recently, till it became a political necessity. Th. G. Terner, a member of the council of the empire, tells us frankly why the government was so hostile to the migration of peasants: it was because the landlords wanted cheap labor and tenants for their land.

> Single individuals may sacrifice, out of higher motives, their own interests to the common weal; but the attitude of classes of population towards economic problems has been always and everywhere selfish. That is why the landlord class was hostile towards emigration; and since it was the most influential class, its attitude found expression in the tendencies of the government. What in the days of serfdom was a matter of course and a necessity, appeared after 1861 as an extremely dangerous affair, which not only was not to be encouraged but was to be suppressed by every means. The question of peasant migration was classed as a revolutionary one: no well-meaning, conservative man was to touch it.[1]

In order to pay taxes which their own land allotments could not furnish, the peasants were obliged to rent the landlord's land. Since there was practically no competition on the side of the landlords and a wild competition on the part of the land-hungry peasantry, a situation arose which, so far as I know, is unparalleled in human history. There developed a peculiar tenant system, which may be called a contract-labor tenant system. The land is rented every year at an extremely high figure, which the peasant is not presumed to pay, but to work out on the landlord's estate. The peasant's work is priced extremely low, as a rule at about one-half of the prevailing wages. These obligations the peasant, as a matter of fact, can not meet, and his indebtedness to the landlord increases from year to year. "The peasant can never clear himself from indebtedness to the local landlord, and being so dependent on

[1] Terner, Gosudarstovo i zemlevladenie, vol. ii, pp. 119, 120.

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the landlord, he is compelled to do all sorts of work."[1] "Accordingly," M. Lipski writes,

> there can be no question that the renting of single dessiatines of land . . . is in the hands of the landlord a powerful means of lowering wages. . . . There can scarcely be any question as to the fact that the renting of single dessiatines in the province of Tambov has lost long ago its rental character; it should now be looked upon as one of the very hardest forms of labor contract. At the same time it is perfectly clear what rôle is played by the land that is leased out in dessiatines. It is an instrument through which the free peasant becomes a serf, who is giving his labor on conditions dictated by want.[2]

But not only does the landlord in this way get field labor at a cost much lower than the cost of subsistence of the laborers, but he gets also the use of their farming stock at the same rate. The peasant as a rule is obliged to use his own farm horses on the landlord's estate—so much so that a very large percentage of estates have ceased keeping any farming stock, relying entirely upon the use of that of the peasants. An investigation dating back to the beginning of the nineties showed that the district of Tombov, for instance, had 26 per cent of estates without farming stock; the district of Lebediansk, 33 per cent; Kirsanov, 30 per cent; Lipeck, 40 per cent, *etc.*[3] The result is an extremely low productivity, not only of the peasant land but also of the noble estates. The peasant is often compelled to neglect his own fields to work on those of his landlord. But working with poor implements and half-starved horses, and being in a great hurry to get through with his task, the results are extremely unsatisfactory.

Not in one or two provinces of European Russia does this situation prevail: volumes could be filled with practically identical data relating to widely differing provinces and regions. Thus we hear from the provinces of Ryazan, of Podolia, of Kursk, of Tombov, of Vologda, of Ufa, the same story, varying

[1] Lipski, Ceny na rabotchia ruki pri zablagovremennom naime, *etc.*, 1902, pp. 107–109. Maslov, Agrarny vopros v Rossii, 1905, p. 259.

[2] Lipski, pp. 112–115.

[3] Maslov, Agrarny vopros, *etc.*, pp. 260–268.

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only in style. Of course if the publication is an official one it reads like an idyl. Here is a sample:

> After thirty years of experience with free labor, but few landlords, and those only to some extent, use permanent hired help and their own farming stock. Most of the landlords hire local peasants together with their farming stock and implements. The landlords keep up the most intimate economic relations with the contingent of peasants who work on their estates during the farming season year in and year out. The best way of getting into such intimate relations with the peasants is to rent them land, essential and indispensable to them but of no special use to the landlords.[1]

Is not this a charming picture?

A good illustration of the existing situation is given by Maslov. He tells us that for some time the peasants of Simbirsk and the neighboring provinces were running away from their lands and settling quietly as landless proletarians on the Cossack lands of Orenburg. They were hiring themselves out to the Cossacks as laborers. It goes without saying that they have not become "capitalists" in working on the Cossacks' fields, "but they would shake with fright when they saw Russia [*i. e.* European Russia] even in a dream."[2]

The renting out of lands is but one mode of securing contract labor. The other mode is that of bread usury.

As I have already pointed out, the great bulk of the Russian peasantry does not harvest enough grain to feed the household throughout the year. As a rule, the peasant has used up his harvest by November or December, and he is then obliged to get money or bread on any condition offered to him. He goes to the landlord, who advances him bread or money but puts him under contract as a laborer for the coming season. From the province of Ryazan we hear that the peasant's labor is pledged to the landlord for two or three years ahead, and at a fabulously low rate. In the autumn the landlord contracts for the peasant's labor at a rate which, on the average, is 47 to 50

[1] Sbornik statist. sved. po Tambovskoi gub., vol. xix, pp. 28, 29. Maslov, *op. cit.*, p. 264.

[2] Maslov, *op. cit.*, p. 268.

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per cent lower than the current wages. In other words, the peasant pays on the bread or the money received from the landlord 47 to 50 per cent interest for half a year.[1] High provincial officials,[2] being questioned on the subject by the central government, reported all forms of field labor contracted for ahead of time as forms of forced labor, the economic conditions of the peasantry forcing them into the position of serfs. Not only are such contracts permitted by the government, but their specific performance is enforced and their breach is treated as a misdemeanor. Article 101 of the law of June 12, 1886, directs the police to bring to the landlord all contracted laborers who have failed to appear or who have left the landlord's fields before the work was completed. Such a runaway peasant makes himself liable to detention in jail for one month.

V

The manifesto of February 19, 1861, ended with these words: "Make the sign of the cross, ye orthodox people, and pray with us for the blessing of God upon your free labor, the pledge of your domestic happiness and of the public weal!" This beautiful sentiment was, however, but a figure of speech. The manifesto itself did not give to the peasantry the rights enjoyed in Russia by other classes of the population. It merely stated that "the serfs will receive in time all the rights of freemen." That time has never come; the peasant has never been made the equal of other men before the law. And every law promulgated since 1861 in regard to the peasantry has been class legislation. The abolition act modified the situation of the peasant, but it did not free him. The reform of 1861 was a compromise measure which improved the political situation of the peasant but made his economic situation worse. The legislation of Alexander III was reactionary to an extreme. To the legislation of the present reigning tsar, his majesty himself obviously ascribes no value or significance; for law has been abolished throughout the Empire. Order and obedience are maintained

[1] Otcherki po krestianskomu voprosu, edited by A. A. Manuiloff, vol. i, p. 54.

[2] In Tombov, Vologda and Ufa.

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by Cossacks' whips and Gatling guns for men and women and burning torches for the farm houses. Cavour was mistaken when he said, "Any fool can govern a people by military law." Not any, and not all the time. Only a year ago one traveling through Russia and asking the peasants, "Whose are you?" would hear everywhere the answer, "So and so's," giving the name of the local rural commander (*zemski natchalnik*). To-day many a peasant will answer, "I shall be my own."

The economist who would regard the Russian peasant as freed from serfdom might just as plausibly claim that Russia has a constitutional form of government, guaranteeing the life and liberty of the citizens. He might call attention to the first article of the manifesto of October 17, 1905, which reads:

> We make it the duty of the government to execute this our inflexible will:
>
> (1) To give to the population the immovable foundations of civic liberty on the principles of actual inviolability of person, freedom of conscience, of speech, of public gatherings and unions.

But this manifesto has had no effect on the realities of Russian life. A cynical but frank Russian statesman, when asked about the matter, answered plainly: The manifesto imposes upon the government the duty to grant the people inviolability of person and all sorts of freedom; but has the government promulgated any such laws? It has not; and therefore the people of Russia can claim no inviolability of person nor any of the enumerated liberties.

Very similar in this respect was the manifesto of February 19, 1861. It promised to the peasantry "in time" all the rights of freemen. But the time has not come. And it is not so much the lack of land that has ruined the peasantry as class legislation, the oppression of the bureaucracy and the suppression of education.

Alexander II criticised the abolition of slavery in America because the negroes were freed without land. They received no land, but they received freedom. And which is now better situated from an economic point of view—the American negro or the Russian peasant? Is the negro starving? But famine now

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prevails in Russia. The Russian press claims this famine to be more intense than even in 1891, when 650,000 people died of starvation. And there has not been a single year in the reign of Nicholas II when famine has not raged in some part of Russia. These famines are not the unavoidable calamities of nature, they are logical and necessary consequences of the economic and political position of the peasantry. To maintain autocracy, the zemstvo schools were antagonized by the government and the peasants were kept illiterate. To prevent the accumulation of a politically advanced city proletariat, the village community system was maintained and extended, and the peasants were tied to land allotments too large to be buried in but too small to live on. In the interest of the landed nobility, colonization of the peasantry was suppressed till it was too late. The peasant has fed the whole bureaucratic machinery; and whatever was left him by the tax-gatherer has been appropriated by the landlord.

But the end has come. Financially the régime has become insolvent. Ordinary expenditures can be met by foreign loans. The bankers will make profits; but the innocent public might as well invest in notes issued by Mme. Therèse Humbert as in bonds issued by the autocrat of all the Russias. Politically the present régime will have to deal with peasant insurrections for land and liberty. There can be no doubt that sporadic agrarian risings will be put down; that the long exhausted fields will be enriched by peasant blood; that peasant homesteads will be burned as they were burned seven centuries ago by the Tartars, and as they have been burned during the last year by the tsar's punitive expeditions. But there can be no doubt that in time the peasants will get all the rights of freemen. They will get those rights because they will take them. The government still commands the bayonets; but these are peasant bayonets, and they are beginning to waver because the peasants are beginning to think.

VLADIMIR G. SIMKHOVITCH.

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THE HOUSING PROBLEM IN SAN FRANCISCO

THE most serious aspect of the great disaster in San Francisco was not the loss of life or of accumulated property. It was the destruction of homes and the loss of incomes that for the time being staggered what was perhaps the most self-reliant and prosperous of American communities. The absolute loss of wealth was indeed great, but there are no outer indications that it had any pronounced effect on the health, spirits and general manner of life or even on the spending habits of the well-to-do people of the community. Some rich young men have come home from foreign parts and gone to work. Some families have reduced the number of their servants or have decided to live all the year in their suburban summer homes. Some men who were about to retire from active business have a probably not unwelcome excuse for changing their minds. On the other hand, retail merchants who assumed a revolutionary change in the purchasing habits of their customers and laid in a stock of inferior and cheaper goods have uniformly been disappointed, and have found that if they are to regain and keep their trade they must supply, even at extravagant prices, goods of the same high value that have been demanded in the past. There is perhaps no city with a higher per capita consumption; and extraordinary as it appears, this is as true to-day as it was a year ago. The persistence of expenditure may be accounted for in part by the circulation of insurance money and relief money; but it seems much more reasonable to attribute it to the fact that people do not suddenly change their established habits, and to a justifiable recognition of the probability that, with the speedy restoration of factories, stores and means of communication and with the economic resources of the state intact, there will be no serious permanent reduction of incomes and therefore no occasion to lower materially the standard of living.

There has never been presented a more striking illustration

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that it is not the stored and embodied wealth of any community that counts in its economic welfare, not even those parts of its wealth that are, as we say, "invested" in great office buildings and banks and impressive stores. It is the flow of capital from mines and farms and factories, through shops and warehouses and markets, that is of prime significance; and it is because even these essential factors of an industrial life and the homes which give a basis for domestic life were destroyed with the rest that San Francisco towards the end of April was stricken as if with economic and moral paralysis. It was not really so, but for a time so it seemed. There was much aimless moving to and fro on the streets. Food came from relief stations and not from markets, for the reason that there were neither markets nor money with which to buy in them. Clothing came from the second-hand bureaus. "Hand-out" methods took the place of purchase and sale. Great trucks moved through the streets, but they were filled with relief stores to be given away, as a few days earlier they had been filled with household effects of escaping refugees. Plumbers, carpenters, laborers, physicians, sanitary inspectors, nurses and relief workers were busy, but under a strange constraint, serving without compensation or with unofficial promises of pay from some undefined source. Ordinary economic relations were suspended. The great altruistic wave had already spent its force. The whole community seemed to be waiting, wondering, marking time. The slight earthquake shocks which were felt almost daily delayed the restoration of complete mental equilibrium; and yet everyone did what it was necessary to do, and the newspapers did not for a moment cease to talk bravely about the restoration which was to come in the future as if it were already taking place.

And then, about a month after the fire, with what seemed to the writer at the time a miraculous suddenness, the whole aspect of things changed. People moved on the streets as before, but now with evidently definite motives. Free transportation of passengers ceased. Commercial consignments of goods began to arrive. Provision markets, restaurants, clothing and other retail stores began to multiply. Crowds no longer besieged the mayor's office and central relief bureaus, although in the camps

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and in the local districts systematic relief was to continue for many weeks. Trucks, delivery wagons and street cars resumed more nearly their normal functions. However imperfectly, and with whatever handicaps from loss of buildings and injury to streets, the ordinary economic life of San Francisco, for which preparation had been making for many days beneath the surface, was renewed. The restoration of light, of water and of sewers, the clearing of a few thoroughfares, the rebuilding of chimneys, the close inspection of the entire city, both on the surface and beneath it, for indications of any sources of infection, the anxious but satisfactory scrutiny of bank resources during the long holiday to ascertain whether it was safe to open for business, the rehabilitation of the municipal departments of police, fire, health and public works, had been going on from the very hour of the disaster; but it was not until near the end of May that the results were apparent and the new start may be said to have been made.

With that new start the general suspension of incomes, to which I have referred as one of the two really serious aspects of the disaster, came to an end. It is true that it did not come to an end for all, and there are doubtless some for whom it will not pass until there has been a complete readjustment by change of occupation or by removal. Physicians were most frequently cited as the class which had suffered most severely, but this is at once a tribute to the extraordinary good health of the community and an indication that prior to April there may possibly have been an over-supply in the medical profession. Clergymen may suffer because of the destruction of so large a number of churches and a lack of resources for immediate rebuilding. Salesmen and clerks are probably in less demand, although in the frame buildings which have been constructed for the purpose and in the converted Van Ness Avenue mansions nearly all kinds of retail trade are as active as in the old days. Rents and fixed charges are much less than formerly, and profits are said to be correspondingly greater. If this is so, there will soon be as much demand as ever for salesmen and clerks, and the same will be true of hotel and restaurant clerks and waiters, who for the first few weeks were perhaps in the most helpless condition

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of all. White domestic servants may have to follow the example of the Chinese and distribute themselves in other cities, but it is difficult to imagine any long continued excess of supply in this direction. As early as June, the rehabilitation committee declined to send domestics out of the city for the reason that the local employment bureaus reported that the demand was in excess of the supply. Stenographers and competent clerks have been in constant demand, and as early as August employees of street railways found themselves in a position to engage in a strike. Although it was not successful, the fact that it was undertaken at all may be regarded as evidence that there was no desperate lack of employment in those occupations. In fact, the street railways have been busier than ever on such lines as they have operated, and have found their profits scarcely diminished.

The greatest demand is naturally in the building trades and for common labor. Wages have persistently soared higher than was felt by the building trades council to be desirable; and it is not improbable that this will eventually result in the importation of carpenters, masons, bricklayers, plumbers and their helpers in such large numbers as to make impossible, after the existing abnormal conditions have passed, the maintenance of the supremacy which trade unionism has held for so long in San Francisco. Employers make no secret of their determination to end what they have considered an intolerable monopoly, and even hint at an organized effort to break down the Chinese exclusion laws as a means to that end.

The restoration of incomes has thus long preceded the rebuilding of the city; and for the next ten years or more we are likely to see the apparently anomalous and yet, in the light of ordinary economic analysis, perfectly intelligible spectacle of a prosperous community, with an exceptionally high standard of living, working under fairly normal conditions, perhaps with even a little more than the average American intensity, and enjoying meanwhile a fair share of the comforts and luxuries of life, but at the same time engaged in the very elementary task of rebuilding its business blocks, covering its bare hills again with dwellings, replacing its school houses and municipal buildings and putting its streets into condition for traffic.

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The destruction of the homes of one-half the population of San Francisco—the other staggering blow to its temporal and spiritual welfare—is more fully to be considered. In a word this loss, unlike the loss of incomes, remains to be repaired. At this writing practically no homes have as yet been rebuilt; and it is reasonably certain that between fifty and one hundred thousand people—say twenty thousand families—will find themselves compelled to leave San Francisco definitely for at least a year, or to live in temporary dwellings in which no real home life is possible, or to crowd into basements or living rooms already sufficiently occupied but capable of overcrowding under compulsion, as living rooms have been crowded before in other cities, with consequences so well known as not to require enumeration.

Temporary shelter for the homeless has been provided by the establishment of camps, the tents for which were furnished largely by the war department from the special relief appropriation made by the government, and by the erection of barracks, also organized as military camps and located like the tent camps chiefly in public parks and squares. Before the end of April the writer called the attention of the emergency committee on the housing of the homeless—one of the sub-committees of the mayor's original committee of safety—to the necessity of more permanent housing, and suggested that a portion of the relief fund be devoted to the erection of attractive dwellings to be sold or rented to refugees then living in tents. The committee did not see its way to favorable action on this suggestion and, although the subject was informally discussed by all concerned, no definite step was taken until, on May 24, I presented to the finance committee of relief and Red Cross funds—the body which had been entrusted with the disbursement of the entire fund available for general relief—the following written recommendation:

> I respectfully recommend that a special committee be appointed to take into consideration and, if found advisable, to carry into effect the formation of a business corporation to acquire land and erect inexpensive dwellings to be rented or sold on reasonable terms, such undertaking to be conducted on business principles and in such a manner as

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to insure the security of the principal invested and a moderate rate of interest, and that, if found necessary, the capital for this undertaking be supplied from the relief and Red Cross funds in such amount and on such terms as may be determined upon by the finance committee on the report of the special committee.

This recommendation was adopted and a special committee of three members, of which I. W. Hellman, Jr., was chairman, went carefully into the subject, conferred with representatives of the New York chamber of commerce and the Massachusetts relief association, each of which bodies still retained approximately a half million dollars which had been raised for the relief of San Francisco, and finally reported to the finance committee in favor of the general plan. Before this report was acted upon, however, the army and the national Red Cross had been succeeded, on July 1, by the relief commission, of which the writer, as representative of the Red Cross, was chairman.

In an official report outlining the proposed work of this commission, prepared at the request of the finance committee and adopted by them on June 26, appeared the following paragraph:

> The question of shelter appears to the commission to be the one of paramount importance—so important indeed as to require not only further consideration by the commission itself and by the finance committee, but also the coöperation of a strong board of consulting architects and builders, who would doubtless be willing to assist the commission in this capacity without compensation. Estimates are before the commission for the construction of temporary dwellings of from $200 to $400 each. His honor, Mayor Schmitz, has expressed the opinion to the commission that instead of constructing such temporary buildings every effort should be made to provide before the winter season a sufficient number of permanent homes of an attractive character for all who need to be housed. The commission is inclined to accept this view, although it is admitted that some additional temporary barracks may be found necessary if by September 1 it appears that there will be a shortage of permanent housing accommodations.
>
> If the finance committee decides that it will be advisable that $1,000,000 or some such amount be invested in acquiring land and erecting homes to be rented and sold on reasonable terms of monthly payment, it is probable that this sum can be greatly augmented by in-

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vestment from private parties, if for any reason the government deposits are not found to be available for this purpose. The business can be so conducted as to pay a reasonable return on such investment and still make the dwellings of moderate cost to the renter and purchaser.

In the report from which the above quotation is made there was another paragraph outlining a plan for special relief and rehabilitation. The finance committee, however, instead of placing that particular work in the hands of the relief commission, carried into effect a decision which had been reached nearly two months earlier and appointed for this purpose a rehabilitation committee, of which committee also the writer was made chairman.

After two weeks' careful study of this subject and consultation with a board of consulting architects and practical builders, a report, which had been unanimously adopted both by the relief commission and by the rehabilitation committee, was presented on July 11 to the finance committee.

A plan had been suggested by Mr. M. H. De Young for the giving of a bonus not to exceed $500 to any person who owned a lot in the burnt district and who was in position immediately to rebuild. The bonus was not to exceed in any instance one-third of the value of the building to be erected, and the money was to be paid to the contractor on the completion of the work, and not to the owner. One avowed object of the plan was to secure the early rebuilding of the old San Francisco. The opening paragraph of this report recommends, in effect, the adoption of this principle, and the remaining paragraphs deal successively with the shelter of the aged and infirm who are entirely dependent, and the provision of permanent homes for working men. It was anticipated that not less than $150,000 would be required for increasing the temporary provision for such as could not be housed in any of these ways before the winter season. The report was substantially as follows:

The rehabilitation committee recommends the acceptance of the principle that workingmen and others of moderate means, whose homes were destroyed by fire, who own lots in the burned district, and

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who cannot obtain from banks, building and loan associations or other society enough to rebuild without assistance, should be aided in rebuilding by a donation or a loan from the relief fund. This policy involves no new action by the finance committee except the appropriation from time to time of such sums as may be required by the rehabilitation committee to carry it into effect. It is exactly in line with the work which that committee was created to undertake.

Immediate action is desirable in the following directions:

(1) The first necessity is the shelter of those who are entirely dependent. We recommend for this purpose the erection, on city property, of an attractive permanent building or buildings, on the cottage pavilion plan, for the care of aged and infirm persons, chronic invalids and other adult dependent persons for whom it is not so much a question of rehabilitation as of permanent maintenance. We recommend that such building or buildings to be erected from the relief fund be large enough to accommodate 1000 men and women, and that the maintenance of the institution after it is erected be left to the municipality. Alternative plans would be to care for these aged and infirm persons in existing private institutions on a per capita weekly basis similar to that on which patients are now cared for in private hospitals, or to make an allowance in the nature of a pension for their care in private families. We believe that the erection of a special pavilion would be more economical and that it has the indirect advantage of enabling the city to secure an attractive modern public home for aged and infirm persons.

(2) The next and most serious problem is the supply of dwellings for families who ordinarily pay a moderate rental, who do not own land and have no considerable savings, but who are in receipt of ordinary wages. There are probably 5000 families now in tents or other temporary shelter who are in this position. Possibly, if those who are temporarily out of the city and who desire to return are included, this number may be 10,000. No accurate estimate is possible, for the reason that there is no information available as to what number has already permanently removed to suburban towns, what number has been absorbed in existing homes by the doubling-up process, and what number will build for themselves. What is certain, however, is that no real beginning has yet been made by private enterprises or otherwise in the erection of dwellings for the 5000 families of which we have knowledge, although nearly half of the long summer season which fortunately lay between the disaster of April and the winter season has already elapsed. It was, therefore, the unanimous conclusion of the

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conference, and it is the official recommendation of the relief commission, that in addition to all that is done for individuals through the rehabilitation committee, some considerable contribution to the supply of homes should be made directly from the relief and Red Cross funds, either by financial assistance to private individuals or corporations in building, on a large scale, suitable dwellings on satisfactory terms, or by the creation for this particular purpose of an incorporated body which can make contracts and enforce legal obligations. It is therefore recommended that, unless the alternative suggested can be made immediately effective, eleven or more persons, including the mayor, the chairman of the finance committee and suitable representation of the national Red Cross, the executive commission and the rehabilitation committee, be designated by the finance committee to form a corporation under the laws of this state relating to corporations not for profit; that not less than $1,000,000 be subscribed by the finance committee as capital, or as a permanent loan to this corporation; that the homes thus provided be sold on a monthly instalment plan to families who were living in San Francisco on April 17, and rented to those who are unable to purchase; that all income from rentals and sales after meeting necessary expenses be invested in the building of other houses or for such other public philanthropic objects as may be decided upon by the corporation, with the consent of the finance committee.

After one year it might be found practicable and desirable for the corporation thus formed to sell its remaining property and interests to savings banks or otherwise and to dispose of the entire sum thus obtained for the relief of those who were still at that time in any way in distress through the disaster, or, if there were no such distress, then for some public purpose which might be decided upon.

The essential thing at this time is that at the earliest possible moment some of the funds which are now lying idle in the treasury of the finance committee shall be put at work providing homes for the working people of the community. The plan which we have recommended is proposed, first, as a relief measure, because the tents will not provide proper shelter after October; second, as a measure of public policy, because in the interests of the community it is not desirable that San Francisco shall lose her present population of working people merely because there are not dwellings to be rented or bought; third, also as a measure of public policy, because it is desirable that workingmen shall have the opportunity to own their homes, and this opportunity is now afforded not on a charitable but on a reasonable and just business

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basis; and finally, because the intelligent and efficient carrying out of the plan proposed will enable the community to set a standard of attractive, sanitary, safe and yet comparatively inexpensive dwellings, which will have a beneficial effect not only in the immediate future but for the coming generation. The coöperation of the municipal administration in enforcing suitable conditions as to sanitation, light, ventilation, fire protection, *etc.*; of the architects in making plans for convenient and attractive homes at moderate cost; of the building trades in getting these homes built; and of the finance committee in advancing capital and creating a corporation which will ensure the purchasers against fraud or injustice, will solve the housing problem, and nothing less than this coöperation will solve it. In closing this report, however, the rehabilitation committee and the relief commission alike wish to emphasize the fact that there is no intention that the relief fund shall become a providence of the refugees, solving all their difficulties and relieving them of all individual responsibility. On the contrary, it is confidently expected that each family will to the greatest possible extent solve its own problem, find its own capital, decide on the plans for its own house and discharge its obligations for any money advanced as soon as practicable, and that, if these recommendations are adopted, the entire business will be so conducted by the rehabilitation committee, the executive commission and the corporation formed for the purpose of acquiring land and building homes, as to preserve in full integrity the fundamental traits of American character, individual initiative and personal responsibility.

Although it involves some repetition it will be worth while to incorporate the text of the resolutions adopted three days later without a dissenting vote by the finance committee, in order to show how completely this committee was in accord at that time with the views embodied in the above report. The resolutions were introduced by Mr. W. F. Herrin, the general counsel of the Southern Pacific railroad, and were as follows:

Resolved, That the finance committee of Red Cross and relief funds adopt the following plan and make the following appropriations for the rehabilitation of San Francisco:

First: That $100,000, or such less sum as may be necessary, be used for the construction of a building or pavilion on the almshouse tract, San Francisco, to afford accommodations for the destitute people now in San Francisco, amounting to about 1000 persons.

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Second: That not exceeding $150,000 be used in the construction and repair of temporary buildings in the public parks to afford shelter for the homeless during the coming winter.

Third: That not exceeding $500,000 be used as donations to enable lot-owners in the burned district to rebuild their homes in such district, such donations to be made as follows: To each lot-owner shall be given a sum equal to one-third of the cost of the building to be constructed on his lot in the burned district, such donation, however, not to exceed in any one case $500, and no more than one donation shall be made to any one person or family. Such donation to be paid to the contractor when the building is completed. This offer to remain open until the first day of October, 1906, unless this appropriation of $500,000 is sooner exhausted.

Fourth: That not exceeding $500,000 be used in making loans to those—whether owners or tenants—whose places of residence in San Francisco were burned in the great fire, such loan to be used in building new dwellings anywhere in San Francisco on a lot owned by the person to whom such a loan is made, such loan to equal one-third of the cost of the building, not, however, to exceed in any case $1,000, and no more than one loan to be made to any one person or family. Security for such loan to be taken by way of second mortgage upon the building and lot if necessary, the borrower to pay three per cent net interest. This offer to remain open until the first day of October, 1906, unless this appropriation of $500,000 is sooner exhausted.

Fifth: That not exceeding $2,500,000 be used in the acquisition of tracts of land in suitable and convenient locations in this city and county and in the erection of buildings thereon for dwelling purposes, such buildings to be either cottages, two-story dwellings or flats containing apartments of from three to six rooms and bath each, costing from $750 to $2,000 for each cottage, two-story dwelling or apartment, to be erected as expeditiously as possible, and to be sold at cost for cash or upon the installment plan to bona-fide residents of San Francisco who are engaged in some business or employment.

As moneys are returned to the fund by repayment of loans in subdivision fourth, or of instalments in the purchase of the above buildings, such money shall be re-invested in the same manner as in the first instance. When the rehabilitation of San Francisco shall have been accomplished, any money remaining in the fund shall be disposed of for the benefit of the people of the city and county of San Francisco.

Resolved, further, that for the purpose of carrying out the foregoing proposals, a corporation be organized under the laws of the state of

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California with the powers necessary for the purposes required; that the incorporators of such corporation shall consist of the members of the finance committee of the relief and Red Cross funds, together with the governor of the state of California and the mayor of the city and county of San Francisco, said corporation to have a board of directors eleven in number, and from such board of directors an executive committee of three shall be chosen with full power to transact the business of said corporation, subject, of course, to the supervision and approval of the board of directors.

On the creation of the corporation, it was decided that it should take over complete responsibility for relief work and the management of camps, as well as the building operations for which it had at first been proposed. This course greatly simplified the relief administration and was in all respects advantageous.

Unfortunately, however, whether because of this increased responsibility or for other reasons, the executive committee of the corporation has reached the conclusion that the building of homes with capital supplied from the relief funds is impracticable. The reasons assigned for this decision, which was reached before the end of August, were that the amount of the relief fund would not be sufficient, after meeting the other demands upon it; that there would not be time to build homes before the winter season; and that to enter upon the plan of selling and renting homes would perpetuate the relief fund instead of disposing of it all, as donors intended, in the immediate relief of the distress caused by the earthquake and fire.

While these are weighty reasons and entitled to respectful consideration, they do not appear to the writer to be conclusive. The funds would have been sufficient, assuming the coöperation of the Red Cross, the New York chamber of commerce and the Massachusetts relief association. Representative labor leaders in San Francisco strongly favored the plan, looking upon it as the greatest opportunity ever likely to be presented to the workingmen of the community to become home-owners. The secretary of the building trades council appeared twice officially before the finance committee in support of the plan. The perpetuation of the fund might readily have been avoided by the plan suggested in the report; and even if not enough

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permanent homes could have been built to house the entire tent and barrack population before November, at least a large number of houses could have been completed, and this consideration should have weighed in favor of prompt and vigorous action rather than as a reason for giving up all attempt. The arguments presented in the report of July 11 remain unanswerable.

The decision of the corporation is to expend a much larger amount than had been proposed in the erection of temporary dwellings in parks and public squares, providing light, heat, and plumbing and charging occupants a small rental for these conveniences; to give the proposed bonus not to exceed $500 to enable lot-owners in the burnt district to rebuild; and greatly to enlarge the proposed accommodations for helpless dependents. The temporary dwellings are light wooden structures of three rooms, costing $150 each. They are better than tents, and better, while they last, than some dark city tenements, but they offer no solution of the real housing problem.

Doubtless the members of the executive committee of the corporation have used their best judgment. The burden of decision and the responsibility for its consequences are upon them. To one sympathetic observer, who has ample reason for trusting the judgment and wisdom of those who are carrying this burden of responsibility, it cannot be made to seem otherwise than that a golden opportunity has been missed, and that by choosing to build almshouses instead of comfortable homes the corporation is unintentionally adopting a policy which will tend to fill almshouses and eventually lessen the demand for homes. It is the peculiar and well justified boast of San Francisco that it has had few or no pauper dependents. It is earnnestly to be hoped that the barracks and temporary quarters for the aged and helpless which they are now building so hurriedly may safely be destroyed in a year or two at most—and that they will not remain, as has happened under somewhat analogous circumstances in the city of Washington, to aid subtly in creating a class of residents fit and contented to dwell in them.

EDWARD T. DEVINE.

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AMERICAN ADMINISTRATIVE TRIBUNALS

THE safeguards of civil liberty find expression in few principles of greater importance than that embodied in the maxim that every man is entitled to his day in court. And the almost universal belief is that the rule is without exception. A day in court in which there shall be adjudication of the very right of the matter—this alone satisfies the general conception. A judicial determination upon some mere matter of regularity of procedure does not afford such satisfaction. It can not be long, however, before it will be recognized that this idea, so generally entertained, is false. For in the United States we have a body of administrative tribunals, not courts, whose decisions are in many instances as final as those of the regular judicial establishments. They limit liberty and control property; and in the matters in which their decisions are final, the day in court becomes a day in the presence of administrative authorities only. And numerous as are our courts, the body of our administrative tribunals is perhaps larger. Under a strict definition they may be numbered by the scores, under a more liberal definition by the hundreds. Though they are not dignified by the formal recognition which has been accorded to the administrative tribunals of France, Germany and Austria, their power is in some matters even more substantial.

The failure to give adequate attention to the institutions of American administrative law, and particularly to the administrative tribunals, has resulted more unfortunately than is realized. Some of the most trying questions that have arisen of recent years in state and national politics and public law have remained unanswered or have been answered only partially because of the uncertainty in which our administrative law is involved. And the question which now occupies public attention in the United States, that of railroad rate regulation and the interstate commerce commission, has vexed the minds of Congressmen as it would not have vexed them if the limits of the administrative

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function had been carefully ascertained.[1] An answer has been given to that question. But will it prove satisfactory and adequate? Hardly a plan was proposed as to the constitutionality or economic adequacy of which there was not profound scepticism. This scepticism would have been much diminished if the administrative aspects of the problem had received due attention; certainly it was justified so long as they were almost entirely neglected. And even though both the constitutional and economic questions be answered successfully, the solution will not be adequate until certain of those great questions of administrative law which lie below the surface are answered.

This condition is characteristic of the times. More and more it is coming to be seen that it is from the solution of the administrative problems before us that we are to receive the greatest practical benefit. Writers on the economics of taxation, while they would not recognize that all has been done that can be done in fixing the principles of justice in taxation or determining the effect of various taxes on labor and capital, would, with few exceptions perhaps, admit gladly that the time is at hand for testing certain of their accepted principles, or, in other words, that the questions of administration are the important practical questions of the day. Let the laws of railroad taxation in the United States during the last fifteen years be read one by one, every provision being scanned.[2] He who but runs through them will have read an indelible lesson of the need of administrative betterment. Let the operation of these laws be examined in detail, especially from the standpoint of the valuation of the property, and he will be left blankly wondering that so little has been done in places where there is so much to do.[3] The administration of the laws of railroad valuation in the United States at the present day is often farcical in the extreme.

President Roosevelt in his message of December, 1905, recommended that the power to fix a maximum rate for rail-

[1] *Cf.* Hearings on Railroad Rates, by the Senate Committee on Interstate Commerce (1905), pp. 853, 854.

[2] *Cf.* the Interstate Commerce Commission Report on Railways in the United States in 1902, part v.

[3] See Census Bulletin no. 21.

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road carriage be placed in the hands of a body which should be "unequivocally administrative." This emphatic declaration endorses the importance of the administrative problem. Yet when may a body be said to be unequivocally administrative? As long as the present decisions stand,[1] it will be insisted that there is equivocation, however unintentional, in any proposal to invest an administrative body with the "legislative" power to make a rate. In the present condition of American public law the making of a perfect distinction between legislative, administrative and judicial powers is a matter of great difficulty. It is not to be wondered at that the powers of the interstate commerce commission—to take but a single instance—have been variously described as legislative, administrative, judicial, *quasi*-legislative, *quasi*-administrative and *quasi*-judicial. Precision is unattainable until the courts have expressed themselves in much greater detail than they have done. The dearth of decisions upon this subject by the United States supreme court is astonishing. It appears that not until the year 1893 did this court express itself upon the fundamental question of the power of Congress to delegate its legislative powers to the president.[2] The assertion then made—that Congress cannot delegate legislative power—was without reservation, but it has come very late in our history. And after all, inasmuch as it opens a wide and uncertain field for the exercise of the power of executive regulation, it affords but a small contribution toward the precise delimitation of the legislative, the executive and the administrative spheres, and the determination of the cases in which these spheres may overlap. In France during the last dozen years there appears to have been an ever-mounting tide of discussion regarding the separation of powers and of functions.[3]

[1] See Social Circle case, 162 U. S. 184; Cincinnati Freight Bureau case, 167 U. S. 479. For the commission's conclusion as to the effect of these decisions see 7 I. C. C. Rep. 286; for summary of the law, Judson on Interstate Commerce, sec. 123. But see W. C. Noyes, American Railroad Rates, pp. 206, 207.

[2] Field *v.* Clark, 143 U. S. 649. And see Fairlie, National Administration of the United States, p. 25.

[3] See E. Artur, De la séparation des pouvoirs et de la séparation des fonctions de juger et d'administrer (Paris, 1905), and Réné Jacquelin, Les principes dominants du contentieux (Paris, 1899). The latter book is divided into two parts, the first treat-

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It is much more than the great theory which Montesquieu made of it in the eighteenth century. As our own present experience attests, it involves practical problems of surpassing difficulty.

The administrative tribunals.—The administrative authorities in the United States which have powers of adjudication, or of discretionary determination, have usually been termed tribunals rather than courts. This term has been employed by the president, the circuit court of appeals, officers of the department of justice and writers on administrative law here and abroad. But the American administrative tribunal, because of the rank growth of the law on which it depends, is generally a thing of indefinite outlines. In a broad—and, it must be confessed, loose—sense the term "tribunal" may be, and has been, applied to all administrative officers exercising discretionary powers. If we use the term in this sense, then the administrative tribunals in the state and national governments are manifold in number and type. But there is a narrower usage—yet still an indefinite usage—which applies it only to administrative authorities which either in their procedure, their constitution or their powers, or in one or more of these matters, closely resemble courts of general jurisdiction.[1] It is rather with the latter class that we are here concerned, for while the former is well known, in connection with the law of public officers, the latter has scarcely a niche in our accepted legal classification.

The administrative tribunals of the states and of the nation are even more distinct, each from the other, than are the state

ing of separation of powers, the second of separation of functions. The discussion of this question is not confined to special works. In many general treatises on administrative law it plays a prominent part.

[1] In the present state of the administrative law of the United States it can hardly be of advantage in so brief an article to make more precise distinctions. But if the law were scientifically developed it might be helpful to distinguish two classes of tribunals, upon somewhat the same basis as that upon which the Germans distinguish between the authorities entertaining the *Verwaltungsbeschwerde* and those entertaining the *Verwaltungsklage*. There might prove to be much of practical value in this. It would assist in the distinction and analysis of the ordinary administrative control and of administrative litigation. See Hue de Grais, Handbuch der Verfassung und Verwaltung, pp. 73–75; O. von Sarwey, Allgemeines Verwaltungsrecht, pp. 152, 153, in Marquardsen; and the article on "Verwaltung" in Meyer's Konversations-Lexikon.

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and national judicial courts. They form two separate systems. Though the federal judges have displayed a tactful policy of non-interference, the national courts may in some cases control the state courts, directly or indirectly. But the national administration seldom or never interferes with the state administration by administrative as distinguished from judicial process. Their remoteness is even more emphasized by their diverse characters and by the difference in the matters with which they have to deal.

The state boards, bureaus or offices which have the power of adjudication or discretionary determination, and which are assimilated in their procedure, constitution or powers to the judicial courts, are of many kinds. They range from dairy commissions up to boards of health and superintendents and boards of education; and of recent years they are to be found in almost every branch of commonwealth administration. One of the most remarkable tendencies in commonwealth administration at the present time is the rapid multiplication of such authorities. In 1903 alone, about 140 new permanent state boards and offices were created, as well as some 75 temporary commissions and 39 special investigating committees.[1] Of course many of these organs of government are not tribunals even in the loose sense in which the term is here employed, but are more properly merely administrative authorities.

The administrative tribunals of the national government are more highly developed than those of the states, one of them being so like a court in its organization and procedure as to have received that designation. The more conspicuous among them are the boards of general appraisers, the comptroller of the treasury, the interstate commerce commission, the court of claims, the commissioner of internal revenue and the secretary of the interior. There are in addition many minor and inferior tribunals. Their number is accounted for not so much by the variety of subjects which fall under the national administration as by the hierarchical organization of that administration. This has resulted in a system of appellate juris-

[1] New York State Library Bulletin, Review of Legislation for 1903.

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diction which is seldom found in the states. Among these minor tribunals are the commissioner of pensions, the board of pension appeals, the patent office's board of examiners-in-chief, the register and receiver of the general land-office.

French writers on administrative law, such as M. Laferrière,[1] whose attitude is adopted by M. Jacquelin, refuse to consider our federal court of claims as in any sense an administrative court, because, "like all the federal courts," it is subject to the control of the supreme court. It is, says Laferrière, a judicial tribunal, deciding administrative causes. These two writers seem to take the position that if the court of claims cannot be considered an administrative tribunal, much less can any other board or office that is found in the United States. For this reason, perhaps, they do not examine the other tribunals in any detail. And seemingly they fail in due appreciation of the fact that many acts of our administrative tribunals may not be reviewed by the courts.[2] The courts may entertain jurisdiction to ascertain whether these tribunals are competent to act in the particular case, but this is far different from actual control.

It is also to be noted that the interstate commerce commission has generally received little or no consideration in the scanty literature of American administrative law. The reason for this is not clear, but the most plausible explanation seems to be found in the fact that the commission, except in so far as it may be deemed an arm of the criminal courts, does not have to do with the relations between the government and natural or artificial persons but rather with the relations between such persons themselves. From this point of view it is like the ordinary civil courts.[3] In the judgment of the present writer the inter-

[1] Laferrière, Traité de la juridiction administrative (1896), pp. 120, 121.

[2] How strong the statement of the American situation with respect to this matter may be made will be suggested by an extract from a recent book on American administrative law: "Within the scope of its jurisdiction the adjudication of the administration is final unless there be a provision to the contrary." Wyman, Administrative Law, sec. 115. But it is evident from other passages in this book that the author would qualify this statement somewhat. It is too general.

[3] But it is of course true that the commission may undertake a general or special investigation on its own motion, for the purpose of securing the enforcement of the law. In this it represents and acts for the government directly.

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state commerce commission is sufficiently peculiar to be placed in a category by itself; but it should not be excluded from the list of administrative tribunals, in any broad consideration of this subject, especially as its activity seems likely to develop important principles of administrative law.[1] It should finally be noted that, to make the consideration of the subject complete, the activity of the ordinary courts in their employment of the injunction and other extraordinary legal remedies would have to be considered, but this topic is beyond the limits of the present article.

Powers and Organization.—It is in the powers and organization of the administrative tribunals that their chief interest lies. What are the extent and limits of their powers of "administrative adjudication?" The decisions of the state courts and of the United States supreme court indicate that the United States constitution and the constitutions of the states do not bar the grant to administrative authorities of the power to make a final determination after a hearing.[2] Even when the determination seriously affects property rights, its finality has in many cases been upheld, though of course the administrative authority, like a court, must be careful to keep within its jurisdiction. Thus some of the state courts have admitted the finality of the determinations of boards of health in respect to nuisances. It is true that certain of these cases preserve a judicial review of such determinations through the writ of *certiorari;* but the review does not extend over the findings of fact but is limited to the jurisdiction of the board and the regularity of its proceedings.[3] The law of some states affords even less protection from arbitrary action in this matter than the French law, though a bill of rights is unknown to the French constitution.[4] The United States supreme court has held that the finding by administrative officers of the amount of a tax to be paid (the tax being a

[1] The commission believes itself to be distinctly an administrative body. Thus it says: "The commission is not a court of equity but an administrative body charged with the enforcement of a particular statute." 8 I. C. C. Rep. 443 at 452.

[2] Goodnow, Principles of the Administrative Law of the United States, p. 339.

[3] *Ibid.*, pp. 337, 338, and cases cited. *Cf.* Freund, Police Power, sec. 123.

[4] *Cf.* Berthélemy, Traité élémentaire de droit administratif, pp. 356–359.

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license tax) was final, even though the complainant had no opportunity to be heard before the assessment of the tax.[1] The same court has held that the determination of an administrative authority is final as regards the admission into this country of Chinese who claim that they are American citizens.[2] An administrative tribunal may thus in effect deprive a man of his citizenship. And these findings will not be reviewed by the courts—at least in the absence of complaint of abuse of discretion—even on the writ of *habeas corpus*. The conclusion from this must be either that an administrative tribunal will protect the liberties of the individual as scrupulously as a judicial court, or that the citizen has been deprived of one of his greatest historic rights.[3] Perhaps the former is the true conclusion. In any event, these decisions indicate the great power that may be granted to the administration.

The determination of the board of general appraisers upon a question of valuation is final, and it is stated that only upon allegation of fraud will a rehearing be granted.[4] The decisions of state educational authorities are often not subject to review by the courts. The authority of the New York commissioner of education in the decision of appeals from lower school authorities is final. The code of Iowa provides that the decision

[1] McMillen *v.* Anderson, 95 U. S. 37, and Cary *v.* Curtis, 3 Howard, 236, cited in Goodnow, *op. cit.* p. 336.

[2] United States *v.* Ju Toy, 198 U. S. 253.

[3] Mr. Justice Brown, with whom Mr. Justice Peckham concurred, said in dissenting: "It has been seen that under these rules [concerning immigration] it is the duty of the immigration officer to prevent communication with the Chinese seeking to land by any one except his own officers. He is to conduct a private examination with only the witnesses present whom he may designate. . . . If this be not a star chamber proceeding of the most stringent sort, what more is necessary to make it one? I do not see how any one can read these rules and hold that they constitute due process of law for the arrest and deportation of a citizen of the United States. . . Such a decision is to my mind appalling. By all the authorities the banishment of a citizen is punishment, and punishment of the severest kind. . . . This petitioner has been guilty of no crime, and so judicially determined. Yet in defiance of this adjudication of innocence, with only examination before a ministerial officer, he is compelled to suffer punishment as a criminal and is denied the protection of either a grand or petty jury." *Ibid.*, pp. 268, 269, 273.

[4] Fairlie, *op. cit.* pp. 102–104, and cases cited.

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of the state superintendent of public instruction on appeal shall be final, and the supreme court of the state has refused to interfere with such decision when the superintendent has acted within his jurisdiction.[1] It is curious to note that in an early case this court described this function of the superintendent as "ministerial." Later it called it "judicial;" then "*quasi*-judicial." The terms "administrative," "*quasi*-administrative," "discretionary," *etc.*, have been applied elsewhere. Such are the mutations of the judicial mind. And how well they illustrate the pains with which anything like a scientific nomenclature for the administrative law is born! The existing nomenclature has all the defects of a fortuitous development.

Not only may the jurisdiction of the administrative tribunal be final; in some cases it is also exclusive. In others it is concurrent or alternative with that of the courts.[2] Some decisions by these tribunals are binding upon the administration, but are subject to review and modification by the courts. And if the authority in some cases is of great importance, in others it is shadowy. The interstate commerce commission was at first believed to have very material powers, but to-day it is characterized as merely "an investigating and prosecuting administrative body, whose findings are given a *prima facie* force in judicial proceedings."[3] Justice Jackson in the Kentucky and Indiana Bridge case, the first important decision under the act to regulate commerce, described the commission as the referee

[1] Section 629 of the code of 1899 of North Dakota provides that the state superintendent "shall decide all appeals from the decision of the county superintendents"; it gives him power to prescribe and cause to be enforced rules of practice and regulations pertaining to appeals, and requires him to keep a record of all his official acts. Webster mentions twenty-eight states in which the appellate jurisdiction has been expressly conferred upon central educational authorities, and says: "This appellate jurisdiction of the state superintendent is one of the really strong tendencies toward centralization which the latter half of the century has developed." See W. C. Webster, Recent Centralizing Tendencies in State Educational Administration (1897), pp. 73, 77. In some states even the county superintendent has an extensive final jurisdiction. See W. A. Rawles, Centralizing Tendencies in the Administration of Indiana, pp. 119, 120.

[2] Wyman, *op. cit.*, secs. 113, 114.

[3] Judson, *op. cit.*, sec. 48.

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of each and every circuit court of the United States.[1] It may also institute proceedings in the courts, "and thus be a prosecutor in the same cases wherein it has acted as judge."[2]

The incidental powers of the administrative tribunals vary quite as widely as their determinative authority. The power to subpœna witnesses and in effect compel them to testify is possessed by some tribunals and is totally denied to others. It is of course true that in those instances where this power is possessed, the actual punishment for contempt—with rare exceptions, if any—will be imposed by a court. In some cases the administrative tribunal is so constituted and its powers are of such a nature as to admit of self-execution of its orders. A board of health may thus not only order a quarantine but, in the exercise of its police power, it may enforce it. The judgments of the federal court of claims are of themselves mandatory upon the secretary of the treasury. But for the actual enforcement of its orders the administrative tribunal must very generally depend upon the assistance of a court.[3] The scope of the order which may be issued by the administrative authority is determined by common law or statute, as indeed is the extent of its powers generally. Thus the definition of nuisances and the scope of an order of abatement are largely matters of common law. The statute may give an administrative tribunal power to issue an order so general in scope as in effect to amount to legislation. In the American Warehousemen's Association case the interstate commerce commission, in reliance upon the statute and a decision of the supreme court, while expressly negativing its intention "to make any order in this case as such," issued a general order requiring carriers to state in their tariffs what free storage was granted and the terms and

[1] Ky. and Ind. Bridge Co. *v.* Louisville and N. R. Co., 37 Fed. Rep. 567; Judson, *op. cit.*, secs. 277, 278.

[2] Judson, *op. cit.*, sec. 278.

[3] Thus it is said that the only means by which the state superintendent of public instruction in Indiana can enforce his decisions and orders is the writ of *mandamus*. Rawles, *op. cit.* p. 124. Contrast the power of the New York state superintendent to enforce his decisions against any school officer by exercising his power of removal or by withholding the district's share of the state grant. Fairlie, Centralization of Administration in New York State, p. 44.

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conditions under which it was granted. Instructed by the abuses in the particular instances the commission thus made a regulation to meet the general situation.[1]

It is apparent from the preceding discussion that even the property and liberty of the individual are in some measure subject to administrative tribunals, and that the review of the action of these bodies by the courts is frequently no more than a review for regularity. But on these points the courts are sensitive. Liberty and property are their special wards, just as the private law is their peculiar demesne. This explains the contention of some lawyers that power to make a rate could not be given to the interstate commerce commission because the exercise of such a power would amount to a taking of property, and the milder contention that the courts must be allowed to step in whenever they deem the rate confiscatory. One of the most tangible expressions of this jealous devotion to the authority of the courts in the United States is found in the extent to which contracts are kept under judicial control. Even when the power of the administrative tribunal is plenary with respect to other matters, it may be denied any shred of authority over contracts. On the other hand in those countries, notably France, where the administration is more scientifically organized, there is a division of authority. In France the administration may act in three different capacities in making contracts: first, in connection with its functions as superintendent of the private domain; second, in connection with its administration of public services; and third, in connection with its action as *puissance publique*, for example in connection with its concessions of certain franchises or privileges. In the last case the contract is said to be administrative in its nature, and the administrative tribunals therefore almost necessarily have jurisdiction over it. In the first and second cases the contract is administrative only when the law declares it to be so; hence in these cases the ordinary courts have sole jurisdiction, subject to exceptions, the exceptions being more frequent in the first case than in the second.[2]

[1] American Warehousemen's Association *v.* Illinois Central R. R. Co. *et al*, 7 I. C. C. Rep. 556, at 591 and 592.

[2] Laferrière, *op. cit.*, vol. i., pp. 587, 588. See also, Simonet, Traité élémentaire de droit public, p. 112.

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Many of the American administrative tribunals indeed have jurisdiction in respect to contracts, but it is a ragged, uncertain, and in some cases almost accidental jurisdiction. The comparative precision of the French law is absolutely wanting. This is not to say that the French law is without defects. Certain of the complexities which have resulted from the separation of its administrative and judicial courts have at least the factitious character and the superficial absurdity of some of the fictions of our common law.

Administrative procedure.—The administrative tribunals of the United States differ as much in their processes as in their powers. In some of them the procedure has much of the formalism of the regular courts. In general, while they have their own peculiar make of red tape, they are impatient of the punctilious give-and-take of plea, demurrer, replication, motion and amendment.[1] They aim at expedition and economy. They are primarily executive agents and as such prone to take the substance and let the shadow go. The very spirit of administration is the accomplishment of things. This may and no doubt does at times result in the sacrifice of rights. But safeguards are established. For example, in the case of pension claims, after the preliminary adjudication of fact and law there may be a reference to the commissioner of pensions, and then an appeal to the secretary of the interior which is in effect decided by a special board of pension appeals. Safeguards in the way of administrative appeal in cases of interference in applications for a patent and in cases of protest before the land office are even more detailed and conservative of rights. Still the administrative tribunals incline toward the laxer rules of *ex parte* proceedings. These tribunals are often as well satisfied by written as by oral testimony. The rules of evidence are little known to them and even less employed. The court of claims acts without a jury, the court itself being judge of both the law and the facts. Indeed it may be said that the jury

[1] "Things are done in administrative adjudication which could never be done in judicial process. Principles are violated in administrative process which are fundamental in the courts. Often the whole solemn procedure is upset so that there may be prompt administration." Wyman, *op. cit.*, sec. 119.

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system is foreign to the administrative tribunals. Parties whose names do not appear on the record are often allowed to intervene with little or no formality.[1] The interstate commerce commission, in its more important investigations, frequently extends a general invitation to all interested to appear and testify before it.[2] In numerous cases it has allowed the attorneys of special interests to displace its own attorneys, and this has generally been much to the advantage of the inquiry.[3] Examination of the testimony in some of the commission's inquiries reveals that at times "a voice" has asked a question and "a voice" has made reply.[4] The evidence given by such mediums in the commission's seances appears as a part of the printed record and no motion for its exclusion seems to have been made.

Some further light is thrown upon the methods of administrative tribunals by an examination of their respect for their own previous decisions. The influence of that sovereign principle of the common law which bids the court to follow precedents prevails even here. It could not well be otherwise in a country whose jurisprudence is Anglo-Saxon. Thus the school tribunals in the states frequently publish extensive reports or copious digests of their decisions for the guidance of their successors. The decisions of the court of claims, of the treasury, of the comptroller of the treasury, of the interstate commerce commission and of other administrative authorities are published. The comptroller of the treasury has held that a decision of a comptroller should not be reversed by a successor upon the presentation of a case involving the same state of facts unless there was a manifest error in the interpretation of the law.[5] Many other illustrations of this attitude might be given. The interstate commerce commission has manifested a keen sense of the

[1] See 1 I. C. C. Rep. 144, at 146; 2 I. C. C. Rep. 122.

[2] See printed testimony in the Grain and Grain Products case, p. 183.

[3] *Ibid.*, p. 182; printed testimony *in re* Transportation of Freight by Common Carriers in Cars not Owned by said Common Carriers, p. 5; Printed testimony *in re* Alleged Unlawful Rates and Practices in the Transportation of Coal and Mine Supplies by the Atchison, Topeka & Santa Fé Railway Company, p. 6.

[4] *Ibid.*, pp. 125, 127.

[5] Decisions of the Comptroller of the Treasury, vol. iv, p. 153.

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importance of continuity in its interpretation of the law. But after all, the application of the rule which dictates adherence to established principles is quite different from its application in the courts of law. Administrative tribunals are not careful to make due distinctions between the dicta and the rulings in preceding cases. Often their findings are based so distinctly upon the special facts of the single case that precedent can hardly be said to exist. An instructive and amusing illustration of an attempt to reconcile a decision with alleged precedents is found in a case decided by the interstate commerce commission. In maintaining that the shipper of petroleum in barrels should not be charged for the weight of the barrel, since the shipper in tanks was not charged for the weight of the tank, the commission stoutly protested that it was following its precedents. The contrary had been contended with much vigor by those who opposed this ruling. And on the face of the cases it fully appears that the commission's language, although it was not as clear as it might have been, gave much warrant for this contrary assumption. The commission, after having asserted at many pages' length that its decisions were consistent and that it had followed its own precedents, wound up with the assertion that it was an administrative body and was therefore not obliged to follow precedent when it saw fit to do otherwise.[1] It would of course arrest the necessary development of law in the new fields in which these tribunals are working if they observed the rule of *stare decisis* in anything like the degree in which it is observed in the ordinary courts.

The fact that the procedure is so largely untechnical and often expeditious, if not summary, conduces to a result which affords one of the best arguments for the maintenance and extension of these tribunals. This is the comparative inexpensiveness to private individuals of proceedings before them. Frequently the expense is borne almost entirely by the government, and the cost to the government is much less than that of prosecutions in criminal courts. The proceedings are often

[1] Rice, Robinson and Witherop *v.* W. N. Y. & Penna. R. R. Co., 4 I. C. C. Rep. 131, at 155.

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so simple that it is unnecessary to employ an attorney. Attorneys when necessary are frequently supplied by the government. Many tribunals, like the interstate commerce commission, are ambulatory. This makes unnecessary the expense attendant upon the transportation of one's case, so to speak, for a long distance. The argument of inexpensiveness is no doubt sufficiently founded upon fact in the United States to be generally available here. But that an administrative proceeding may be very costly in some places and under certain conditions is fully attested by the history of complaints in the British railway commission court.[1]

Qualifications of members.—Of the character of the members of these tribunals not much that is encouraging can be said. The qualifications are seldom technical or specific, except in the case of state boards of health and similar scientific bodies. Political service and political influence seem to be the usual credentials. Public opinion as well as the opinion of the bar requires the filling of judicial offices from the legal profession. But this is not true of the administrative tribunals. These offices remain in large measure a contingent fund of place and position from which a chief executive can make discretionary payments in satisfaction of political obligations. And yet the work is often technical—as technical as that of the judge, the scientist or the professional economist. And being technical, it requires for its best performance men trained by education and experience to the special service involved. Public offices fall into two great groups, the professional and the political. The administrative tribunal belongs in the former group.

Conclusions.—In the foregoing pages an effort has been made to show that the administrative tribunal is something quite different from the judicial court; that its processes are typical; and that its powers are often so great that studied neglect of it is fatuous and continued ignorance of it dangerous.

It is probable that the use of the administrative tribunal will increase in the United States. Many judges seem to demand it;

[1] S. J. McLean, "The English Railway and Canal Commission of 1888," in *The Quarterly Journal of Economics*, vol. xx, pp. 38—40.

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public opinion has frequently called for it; and there are arising in our public life numerous problems so peculiarly technical as to demand for their solution the creation of special administrative boards of experts.[1] Something more is necessary than the spasmodic pulling and hauling with which from time to time legislatures have tried to meet this need.

In the present structure of the administrative tribunal there is a lack of careful articulation. The administrative tribunal is too often a makeshift, its competence conjectural and the law upon which it is based a mere agglomeration of details. Even in those cases in which the tribunal has been constructed with exceptional care there is usually some conspicuous defect. It is hard to establish a body of this kind which shall be perfect in its details when the basis upon which it rests is shifting and unknown. Mr. W. M. Ackworth described the British railway commission court in his recent testimony before the Senate committee on interstate commerce. He stated that its chairman, who must be a judge of the high court, decides all questions of law. Senator Cullom asked the following question: "And in all law questions his decision is final? Did I understand you to say that?" Mr. Ackworth replied: "It acts a little peculiarly, sir, in all cases that, in the opinion of the commission, are questions of law; and the commission may, perhaps, go wrong on the fact of what are questions of law."[2] Such are the vicissitudes that attend the severance of the judicial and administrative courts. And yet the English railway commission court is perhaps one of the best administrative tribunals to be found in Anglo-Saxon countries.

The powers of the administrative tribunal are too frequently a matter of speculation. They should be carefully defined. The authority which the administration possesses over its own processes has frequently resulted in an admirable simplicity. But this highly flexible procedure none the less has the defects of its qualities. Let it be simple, but let it be an orderly sim-

[1] Hearings on Railroad Rates, by the Senate Committee on Interstate Commerce (1905), pp. 1846, 1847.

[2] *Cf.* S. P. Orth, "Special Legislation," in the *Atlantic Monthly*, January, 1906 p. 73.

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plicity. Let certainty and security be introduced, and its case will be far stronger than it is at present. May it not be anticipated that, whatever substantial powers Congress may have conferred upon the interstate commerce commission, much of the work will have to be done over because of a failure to perfect the administrative detail, especially at those points where the functions of the commission approach those of the legislative or of the judicial department?

The attempt which is sometimes made to decry administrative law as an importation, an exotic, as *droit administratif*, is fatuous. We have it all about us; we have had it from our beginning as colonies of England; we have retained and developed it as an independent nation. The administrative tribunal is one of the oldest of Anglo-American institutions. The courts of king's bench, common pleas and exchequer sprang from the permanent council of the king, which was made up of administrative officers. These courts were themselves, in one important sense, administrative courts down to the year 1703, when by the Act of Settlement they were given judicial independence. The self-government on which the Anglo-American prides himself owes an incalculable debt to the administrative courts of the justices of the peace as they developed in England. The administrative tribunal in Anglo-Saxon countries is, in brief, so old that it has been forgotten, and so new that its presence is hardly realized. We are a commercial people, and therefore we have cultivated the commercial law, the private law, allowing it to crowd the public law, and especially the administrative law, into dark places. We have paid a great price for this neglect already, and shall pay a greater one if it continues. The administrative tribunal is with us, it has become perhaps indispensable, and it demands and merits the most thoughtful attention.

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JEFFERSON AND THE CONSULAR SERVICE.

IN the organization of the national government Washington and Hamilton undoubtedly performed the chief part. Historians have given due prominence to this fact, but they have neglected the work done by Jefferson in organizing an important branch of the government, the consular service. To organize, indeed almost to create, a consular service was peculiarly difficult in the years 1790 and 1792, for at that time domestic affairs were very unstable and foreign policies as yet unformed.

What had been done before Jefferson entered upon his task can be briefly stated.[1] As early as 1780 Congress had recognized the need of separating fiscal and commercial from diplomatic affairs by appointing a consul to reside in France. The consul so appointed was William Palfrey, who was to receive a salary of $1500 a year; and Thomas Barclay was appointed vice-consul at a salary of $1000. Palfrey, however, was lost with his ship at sea, and was succeeded as consul by Barclay, who thus became the first American consul to reside in Europe.[2] Barclay had, in fact, the powers of a consul-general. Five years later, on October 28, 1785, Congress adopted the following resolution:

> Whereas it is expedient that consuls should be appointed in the different states with which the citizens of the United States are engaged in commerce; therefore, resolved, that the ministers plenipotentiary of the United States in Europe, and where there is no minister the chargé d'affaires, shall exercise the powers of a consul-general for the kingdoms or states in which they respectively reside, provided that no additional salary be allowed for such service.[3]

In spite of the advice of Franklin and Adams, who spoke from

[1] On this see E. R. Johnson: POLITICAL SCIENCE QUARTERLY, vol. xiii, pp. 19–40.

[2] It is a coincidence that the name of the first British consul to the United States was Thomas Barclay.

[3] Journals of Congress, vol. x.

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their experience as diplomatic agents, Congress thus made the mistake of continuing to impose consular duties upon the diplomatic branch of the administration. It is much to be regretted that this Congress, which was to pass the remarkable ordinance of 1787, did not lay the foundation of a consular system worthy to be maintained and developed. A strong, independent consular service would have been of great value at this time in restoring trade, and later it would have prevented many misfortunes that befell our commerce.

In 1785 Thomas Jefferson became minister of the United States to France. By article 29 of the treaty of commerce of 1778 between the two countries, mutual liberty to appoint consular officers was secured to the contracting parties, and it was stipulated that the functions of such officers should be regulated by a "particular agreement." Such an agreement was eventually brought about when, on November 14, 1788, after long and wearisome delays, Jefferson concluded a convention to define and establish "the functions and privileges of consuls and vice-consuls." This was his first achievement for the consular service. A few months later a new government took charge of the affairs of the United States. President Washington referred the consular convention to the Senate, and that body on July 29, 1789, approved it unanimously.

By the ratification of this convention, the government under the constitution not only recognized the existence of a consular service but adopted it as a part of the new administrative system. From that time to the present the consular service has been under the direct supervision of the department of state. No man, perhaps, was better qualified by experience and knowledge to take up the organization and regulation of that service than Thomas Jefferson, the newly appointed secretary of state. He knew thoroughly the needs of our country, and his five years of residence in France had given him an opportunity to become familiar with conditions in Europe. Whatever of merit or of evil is inherent in our consular system must be attributed largely to Jefferson; for he, more than any other, was its creator and organizer. Not only did he conclude the consular convention with France, but, as the first secretary of state of the United

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States, he had the whole consular service for four years under his direction. The customs and precedents originating in these first years of the new government have been most potent and most lasting. Finally, it was through his influence and in accordance with his advice that the important act of 1792 was passed.

Jefferson was still in Europe when appointed secretary of state, and he did not enter upon the duties of his new office until March 22, 1790. On June 15 eight persons were informed by letter from the secretary of state of their appointment to consular office. The first letter of Thomas Jefferson to a consul of the United States was as follows:

NEW YORK, JUNE 15, 1790.

John Marsden Pintard, Esq.

Sir: The President of the United States desiring to avail the public of your services as consul for the Island of Madeira, I have the honor of enclosing you the commission and of expressing to you the sentiments of perfect esteem with which I am, Sir,

Your most obedient and humble servant,

[Signed] *Thomas Jefferson.*[1]

Similar letters were sent to the other appointees. In the latter part of August, 1790, the letters show that sixteen consular officers—six consuls and ten vice-consuls—had been appointed for six different foreign lands. By the first of January, 1795, the number of consular representatives of the United States had increased to forty in twelve different foreign countries: five consuls-general (ministers acting in this capacity), twenty-five consuls, eight vice-consuls and two commercial agents.[2]

[1] American Letters, vol. i, June 15, 1790, State Department MSS.

[2] They were placed in the various countries as follows:

To the republic of France and dependencies: consul-general (minister), James Monroe; consuls, three; vice-consuls, three. To the kingdom of Great Britain: consul-general (minister), Thomas Pinckney; consuls, six; vice-consul, one; commercial agent, one. To the kingdom of Spain: consul-general (minister), William Short; consuls, four. To the kingdom of Portugal and its dominions: consul-general (minister), David Humphreys; consuls, two; vice-consul, one. To the United Netherlands and their dominions: consul-general (minister), J. Q. Adams; consul, one; vice-consuls, three; agent, one. To Denmark and the Hanse Towns: two

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On July 1, 1790, Congress had passed a law entitled: "An act providing the means of intercourse between the United States and foreign nations."[1] This act made no mention of the duties, salaries or emoluments of consuls, probably for the reason that a separate bill was being prepared for that purpose.[2] As regards the payment of consuls two distinct policies had been followed. The first consul of 1780, it will be remembered, was to receive a salary of $1500. The resolution of Congress in 1785 did away entirely with consular salaries, but permitted the consuls to engage in trade, as many of them actually did. It was a custom long followed but never satisfactory either to the consuls or to the government. The ministers to the foreign courts were acting as consuls-general, but, as expressly stated by the resolution of 1785, without additional pay. It was certainly a very economical basis on which the consular service was being conducted. There was no salary nor were there any fees or emoluments attached to the office of consul. The need of economy at that time was very great. The new government was just being established, commerce was burdened with restrictions, and it was very uncertain how much revenue would be derived from imports. In these facts is found the excuse for the apparently parsimonious treatment by Congress of our consular officers.

Soon after their appointment in the summer of 1790, the con-

consuls to each. To Germany, Italy, Morocco, China and East Indies: one consul to each.

The above list is made out from a list given in the United States Register for 1795, of which there is a copy in the Library of Congress. In the same year (1795) there were in the United States twenty-five consular representatives from six foreign countries: five consuls-general, eleven consuls and nine vice-consuls.

[1] Statutes at Large of the United States, vol. i, p. 128. Inasmuch as this law of 1790 authorized the president to draw from the United States treasury a sum of money not exceeding $40,000 annually "for the support of such persons as he shall commission to serve the United States in foreign parts" some persons have supposed that it was intended to include the consular service. Professor E. R. Johnson (in POLITICAL SCIENCE QUARTERLY, vol. xiii, p. 39) says: "A part of the money thus placed at the disposal of the president might have been used in paying salaries of consuls, but none was so applied."

[2] See Jefferson's instructions, *infra*, p. 630; also Jefferson's letter to J. Johnson, *infra*, p. 632.

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suls went to their posts of duty, and by the end of the year letters from them began to be received by the secretary of state.

The earliest instructions to the consular body were sent by Jefferson on August 26, 1790. As they contain an explanation of many of the duties of consuls and also Jefferson's ideas as to the personnel of the service, they are here given in full.

CIRCULAR TO THE CONSULS AND VICE-CONSULS OF THE UNITED STATES.[1]

NEW YORK, AUGUST 26, 1790.

Sir: I expected, ere this, to have been able to send you an act of Congress, prescribing some special duties and regulations for the exercise of the consular offices of the United States; but Congress not being able to mature the act sufficiently, it lies over to the next session. In the meanwhile, I beg leave to draw your attention to some matters of information, which it is interesting to receive.

I must beg the favor of you to communicate to me, every six months, a report of the vessels of the United States which enter at the ports of your district, specifying the name and burthen of each vessel, of what description she is (to wit, ship, snow, brig, *etc.*), the names of the masters and owners and number of seamen, the part of the United States from which she cleared and places touched at, her cargo outward and inward and the owners thereof, the port to which she is bound and times of arrival and departure; the whole arranged in a table under different columns and the reports closing on the last days of June and December.

We wish you to use your endeavors that no vessel enter as an American in the ports of your district, which shall not be truly such, and that none be sold under that name, which are not really of the United States.

That you give to me, from time to time, information of all military preparations and other indications of war which may take place in your ports; and when a war shall appear imminent, that you notify thereof the merchants and vessels of the United States within your district, that they may be duly on their guard; and, in general, that you communicate to me such political and commercial intelligence as you may think interesting to the United States.

The consuls and vice-consuls of the United States are free to wear the uniform of their navy if they choose to do so. This is a deep blue coat with red facings, linings and cuffs, its cuffs slashed and a standing collar; a red waistcoat (laced or not at the selection of the wearer)

[1] State Department, Foreign Letters, p. 399.

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and blue breeches; yellow buttons with a foul anchor, and black cockades and small swords.

Be pleased to observe that the vice-consul of one district is not at all subordinate to the consul of another. They are equally independent of each other.

The ground of distinction between these two officers is this: our government thinks that to whatever there may be either of honor or profit resulting from the consular office native citizens are first entitled, when such, of proper character, will undertake the duties; but where none such offer, a vice-consul is appointed of any other nation.

Should a proper native come forward at any future time, he will be named consul; but this nomination will not revoke the commission of vice-consul; it will only suspend his functions during the continuance of the consul within the limits of his jurisdiction, and on his departure therefrom it is meant that the vice-consular authority shall revive of course, without the necessity of a reappointment.

It is understood that consuls and vice-consuls have authority of course to appoint their own agents in the several parts of their district, and that it is with themselves alone that those agents are to correspond.

It will be best not to fatigue the government in which you reside, or those in authority under it, with applications in unimportant cases. Husband their good dispositions for occasions of some moment, and let all representations to them be concluded in the most temperate and friendly terms, never indulging in any case whatever a single expression that may irritate.

I have the honor to be, Sir, your most obedient and most humble servant.

Thomas Jefferson.

These instructions settled some questions that had already arisen, and they proved an invaluable guide to the consuls in their work, wherein few or no precedents had as yet been established. The circular did not define the jurisdiction of consuls, but later circulars and letters supplied the lack.

Of the occasional letters sent out from the department of state to the consuls, giving them more detailed instructions for the work in their particular field, the following is a good example. It is a letter[1] from Jefferson to Joshua Johnson, consul

[1] Never before published. It is dated at New York, Aug. 7, 1790, and is recorded in MS. American Letters, vol. i.

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for London, in which the secretary explains at some length the nature of the consul's work.

Sir: The president of the United States, desirous of availing his country of the talents of its best citizens in their respective lines, has thought proper to nominate you consul for the United States at the port of London. The extent of our commercial and political connections with that country marks the importance of the trust he confides to you, and the more as we have no diplomatic character at that court. I shall write more to you in a future letter on the extent of the consular functions, which are in general to be confined to the superintendence and patronage of commerce and navigation, but in your position we must desire somewhat more. Political intelligence from that country is interesting to us in a high degree; we must therefore ask you to furnish us with this as far as you shall be able; to send us moreover the gazette of the court, Woodfall's parliamentary register; to serve sometimes as a center of correspondence with other parts of Europe, by receiving and forwarding letters sent to your care. It is desirable that we be annually informed of the extent to which the British fisheries are carried on within each year, stating the number and tonnage of the vessels and the number of men employed in the respective fisheries; to wit, the northern and southern whale fisheries and the cod fishery. I have as yet no statement of them for the year 1789, with which therefore I beg you to begin. While the press of the seamen continues, our seamen in ports nearer to you than to Liverpool (where Mr. Maury is consul) will need your protection. The liberation of those impressed should be desired of the proper authority with due firmness, yet always in temperate and respectful terms, in which way indeed all applications to government should be made.

The public papers herein desired may come regularly once a month by the British packet, intermediately by any vessels bound directly either to New York or to Philadelphia. All expenses incurred for papers and postages shall be paid at such intervals as you choose, either here on your order or by bill on London whenever you transmit to me an account.

There was a bill brought into the legislature for the establishment of some regulations in the consular office, but it is postponed to the next session. That bill proposed some particular fees for some particular services; they were however so small as to be no object. As there will be little or no legal emolument annexed to the office of consul, it is of course not expected that it shall render any expense incumbent on him.

I have the honor to be, with great esteem, Sir, . . .

Thomas Jefferson.

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From the above letter it is evident that the work of a consul was not to be easy. Men of learning, tact and business ability were needed in the consular service then as they are now. It was well for Jefferson thus early to advise patience and politeness, for the question of the impressment of American seamen, to which he refers, was one of the most vexatious with which our consuls had to deal, and their correspondence is full of it from this time until the war of 1812.

In this first year of the new consular service a question arose with France in regard to the right of the United States to appoint consuls to the French colonies. The answer involved the interpretation of the clause of the consular convention. On such a question no one could speak with greater authority than Jefferson, by whom the convention was negotiated. In a letter to William Short, in July, 1790, Jefferson mentions that M. de la Forest, French consul at New York, had remarked the appointment of consuls to the French islands. Jefferson then explains to Minister Short the terms employed in the convention and what the understanding was at the time the convention was framed. He says:

> The words "états du roi" unquestionably extended to all his dominions. If they had been merely synonomous with "la France" why was the alteration made? When I proposed the alteration I explained my reasons, and it cannot be supposed I would offer a change of language but for some matter of substance.

A few months later the French government questioned the right of the United States to appoint consuls in the French colonies, and once more Jefferson wrote to William Short and declared that the right of the United States was clear. He insisted on this as a "reservation of our right, and not with a view to exercising it, if it shall be inconvenient or disagreeable to the government of France." Only two officers had been appointed to the French colonies—Mr. Skipwith to Martinique and Guadaloupe, Mr. Bourne to St. Domingo—and they were now instructed not to request a regular *exequatur*, and the hope was expressed that the French government would show them such attentions as the patronage of commerce might call for.

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As regards Great Britain, with which the United States had no consular convention, nor even a treaty of commerce, the position of the American government was entirely different. Two years later, in a letter to Mr. Coxe, Jefferson indicated the situation as it then stood.

With respect to the placing of consuls in the British Islands, we are so far from being permitted that, that a common mercantile factor is not permitted by their laws. The experiment of establishing consuls in the colonies of the European nations has been going on for some time, but as yet we cannot say it has been formally and fully admitted by any. The French colonial authority has received them, but they have never yet been confirmed by the national authority.[1]

On May 13, 1791, Jefferson sent out his second circular:

TO THE CONSULS AND VICE-CONSULS OF THE UNITED STATES.[2]

Sir: You will readily conceive that the union of domestic with the foreign affairs under the department of state brings on the head of this department such incessant calls, not admitting delay, as oblige him to postpone whatever will bear postponing; hence, tho' it is important that I should continue to receive from time to time regular information from you of whatever occurs within your notice interesting to the United States, yet it is not within my power to acknowledge the receipt of your letters regularly as they come. I mention these circumstances that you may ascribe the delay of acknowledgement to the real cause, that it may not produce any relaxation on your part in making all these communications which it is important should be received, and which govern our proceedings tho' it is not in my power to note it to you specially.

I had hoped that Congress at their last session would have passed a bill for regulating the functions of consuls. Such a one was before them, but there being a considerable difference of opinion as to some of its parts, it has been finally lost by the shortness of the session which the constitution has limited to the third of March. It will be taken up again at the ensuing session of October next; and in the meantime you will be pleased to govern yourself by the instructions already given.

In general our affairs are proceeding in a train of unparalled prosperity. This arises from the real improvements of our government,

[1] Jefferson's Works, vol. iv, p. 69. It seemed, in fact, to make no difference whether consular conventions existed or not, for the United States had as much trouble with France as with England.

[2] Never before published. It is recorded in Instructions to Ministers, vol. 1.

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from the unbounded confidence reposed in it by the people, their zeal to support it and their conviction that a solid union is the best rock of their safety, from the favorable seasons which for some years past have coöperated with a fertile soil and good climate to increase the productions of agriculture, and from the growth of industry, economy and domestic manufactures. So that I believe I may say with truth that there is not a nation under the sun enjoying more present prosperity now with more in prospect.

The unsuccessful issue of the expedition against the savages the last year is not unknown to you. More adequate preparations are making for the present year, and in the meantime some of the tribes have accepted peace and others have expressed a readiness to do the same.

Another plentiful year has been added to those that had preceded it, and the present bids fair to be equally so. A prosperity built on the basis of agriculture is that which is most desirable to us, because to the efforts of labor it adds the efforts of a greater proportion of soil. The check, however, which the commercial regulations of Europe have given to the sale of our produce has produced a very considerable degree of domestic manufacture, which so far as it is of the household kind will doubtless continue, and so far as it is more public will depend on the continuance or discontinuance of the European policy.

I am, with great esteem,

Thomas Jefferson.

For two years, as indicated in the instructions and letters of Jefferson, Congress had been considering the regulation of the consular system; but for various reasons the act had been delayed. Finally on April 14, 1792, such an act was passed.[1] It should be noticed that this act did not, as some have said, create the consular system, but it did to a certain extent define the duties and functions of consuls.

During the years from 1792 down to 1816, when foreign affairs were most troublesome, when precedents were being established and consuls were inexperienced and frequently perplexed, our secretaries of state were kept exceedingly busy in

[1] It was entitled: "An act concerning consuls and vice-consuls for carrying into full effect the convention between the King of the French and the United States of America, entered into for the purpose of defining and establishing the functions and privileges of their respective consuls and vice-consuls." The act may be found in the Journals of Congress, vol. iii, p. 1360, and in Statutes at Large, vol. i, p. 254.

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giving advice and sending instructions. That the task became a heavy burden for Jefferson is made plain by the opening sentences of the instructions of May 13, 1791, quoted above.

Soon after the adjournment of Congress in 1792 Jefferson sent out his third set of instructions to the consuls and vice-consuls and forwarded to them also a copy of the law of Congress passed during the previous month. Besides some general instructions in regard to the duties of their office, Jefferson wrote of the public credit and the continued prosperity of the country. Two more circulars of general instructions were sent out by him before he retired from the office of secretary of state, Dec. 31, 1793. One of these circulars, dated November 14, 1792, directs the consuls to address their letters in future to the secretary of state, by title and not by name, as he intends to resign. The other circular, on March 21, 1793, calls the attention of the consuls to the appearances of war in Europe and desires them, on the first symptoms of rupture among the maritime powers, to put our vessels on their guard, to secure to them the rights of neutrality and to protect them against all invasions of such rights.

The consular service as developed by Jefferson was organized, to put it as concisely as possible, as follows: Only native citizens of the United States were appointed consuls. In ports where consular officers were needed a foreigner was appointed vice-consul if no deserving native was to be found there. A vice-consul of one port and its vicinity had no dependence on the consul of another; each acted independently in his department, which extended to all places within the same allegiance that were nearer to him than to any other consul or vice-consul; each could appoint agents within his department who were to correspond with himself. In France in 1791 there were three consuls for the United States (natives) and two vice-consuls (Frenchmen). In England there were three consuls for the United States (natives) and one vice-consul (foreigner). In Ireland there was one consul for the United States (native).

It was Jefferson's settled policy to appoint foreigners to the consular offices only when deserving natives could not be found. In his letter to Jay in 1788 accompanying the consular conven-

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tion, Jefferson had said: "Native citizens, on several valuable accounts, are preferable to aliens and to citizens alien born." His reasons for so thinking are clearly indicated in two of his letters. In a letter to the vice-consul at Havre, M. de la Motte, he said:

I am sensible of the difficulties to which our consuls are exposed by the applications of sailors calling themselves American. Though the difference of dialect between the Irish and Scotch and Americans is sensible to the ear of the native, it is not to that of a foreigner, however well he understands the language, and between the American and English (unless of particular provinces) there is no difference, sensible even to a native. Among hundreds of applications made to me at Paris, nine-tenths were Irish, whom I readily discovered, the residue I think were English, and, I believe, not a single instance of a Scotchman or American. The sobriety and earnestness of the two last keep them from want. You will find it necessary to be extremely on your guard against these applications.[1]

Twenty-five years later, on February 4, 1816, Jefferson wrote again on this subject of appointing foreigners to office and in particular concerning M. de la Motte:

On the question of giving to de la Motte the consulship of Havre I know the obstacle of the Senate. Their determination to appoint natives only is generally proper, but not always. These places are for the most part of little consequence to the public, and if they can be made resources of profit to our ex-military worthies they are so far advantageous. You or I however know that one of these new novices [*sic*], knowing nothing of the laws or authorities of his port, nor speaking a word of its language, is of no more account than the fifth wheel of a coach.[2]

It is evident that the thought uppermost in Jefferson's mind was the good of the service. The best men available should be appointed. Nearly all of the secretaries of state since his time have advocated the same system—the merit system—but unfortunately, after a hundred years and many attempts at reform, it is not yet established.

[1] Never before published. It is to be found in Instructions to Ministers, vol. i.

[2] Jefferson's Works, vol. vi, p. 552.

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Consular officers, with the exception of the first consul and vice-consul, received no salary, fees or emoluments. They were of course allowed to engage in trade. This lack of salary distressed Jefferson very much; and it was largely through his efforts that the law of 1792 provided for certain consular fees. Economy at that time demanded such a system; but there is no sufficient excuse for its maintenance to the present time.

Some of those early consular officers, possibly all of them, were able and faithful in the performance of duty. Thomas Barclay, first consul of the United States in Europe, also a diplomatist, performed a long service and was highly esteemed by his government. Stephen Cathalan was consul and vice-consul for twenty-six years and performed the work for nearly forty. He spoke English and French fluently, and according to Jefferson's testimony performed his duties well. Sylvanus Bourne was in consular work twenty-six years, seventeen or more of which were spent at Amsterdam. Bourne's last letter to his government, dated June 5, 1817, reveals very unsatisfactory conditions in the consular service. He writes, in a trembling hand, that he still has confidence that Congress will make a more proper and equitable provision for the compensation of our consuls abroad.

> As it is at present [he declares] their situation is dishonorable to their country and peculiarly degrading to the men themselves. A correct statement of their suffering and privation could not fail to excite fitting sentiments of the justice due to them.[1]

A few weeks later Bourne died in extreme poverty at Amsterdam.

The consular system, if system it can properly be called, was fully established in 1792. It had been developed by Jefferson along the lines indicated by him in his letter to Jay, accompanying the consular convention of 1788. It was not satisfactory to Jefferson, but it was the best obtainable at the time. That some of its defects were continued and others introduced was the fault of others and of later times.

BURT E. POWELL.

WILMETTE, ILLINOIS.

[1] This letter is to be found in the Consular Dispatches.

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CONSTITUTIONAL THEORIES IN FRANCE

IN THE SEVENTEENTH AND EIGHTEENTH CENTURIES

ONE who goes through the records of French history finds, upon coming to the revolutionary era, certain elaborate, written constitutions. The very swiftness with which one document succeeds another would seem to be *prima facie* evidence of their inadequacy; they may, indeed, be regarded as the prospectuses rather than the bases of government; but putting aside all questions of intrinsic worth, as judged by the later developments of political science, there is no escape from the conclusion that these constitutional phenomena were at the time of vast significance, and we cannot withhold our wonder at the apparent unexpectedness of their appearance upon the scene of French political life.

Whence come these documents which seek to enthrone system in the place of chaos? Are they the result of a fortunate inspiration vouchsafed in the nick of time to rescue France as she totters between the gulfs of despotism and anarchy? Are they a special, unaccountable gift of political insight? Are they efforts to solve a problem which France had never attempted to solve or even formulate before? Are they the first clamorous expression by French publicists of the need for greater order and stability in the administration of government? No, they are none of these. They are simply stages in the realization that something was wrong with the French machinery of state, and in the process of that realization they are by no means the first stages. So the suddenness and spontaneity of the revolutionary constitutions is only apparent and not real.

Indeed the correspondence and memoirs and treatises of French thinkers for two hundred years before the overthrow of '89 are replete with complaints in regard to the old régime and suggestions for remedying its irregularities and injustice. Whether France had a constitution was a question asked and answered countless times; and, naturally enough, the answers

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were largely determined by personal or corporate interest and predilection. To describe the growth of the idea of a constitution, it will be profitable to quote the views of men who may be presumed to have had some influence in shaping public thought, though the exact measure of that influence it will be beyond our power to estimate. To appreciate the difficulty with which the idea took form we must have some notion of the dead weights and the active energies which impeded or opposed its development.

On March 6, 1648, a deputation from the Parliament of Paris visited the queen regent and replied as follows to her request that the parliament define its authority and limit its jurisdiction:

> For the members of parliament to resolve what are the extreme limits of their power would be to enter into controversy with their sovereign. Pardon us, Madame, if, in order to keep within the bounds of respect, we fail in obedience. The members of parliament confess that they cannot and ought not to decide a question of this nature, for, in order to do so, it would be necessary to break open the seals of royalty and penetrate into the secrecy and majestic mystery of the empire. Be gracious enough to pardon, Madame, this refusal to deliberate upon the most important and difficult question of government, the determination of the legitimate measure, extent and competence of the various powers.[1]

Lest it be thought that the parliament's reluctance was actuated by unselfishness and modesty, I may be permitted to quote the sentiments of the same parliament in the year 1732:

> The full and entire liberty of acting according to the exigencies of time and circumstance constitutes all the force, sometimes all the importance, of our decisions. Everything which might tend to tie the hands of your parliament and to restrain that indefinite liberty which it has always enjoyed in the administration of justice, would appear at once new and difficult if not impossible of execution.[2]

Something of the same spirit is manifest in the remonstrances of the Parliament of Provence in February, 1771. In this case

[1] Mémoires de Talon, Mémoires relatifs à l'histoire de France (Paris, 1857), vol. xxx, p. 217.

[2] Flammermont, Remontrances du Parlement de Paris, vol. i, p. 282.

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it is a question of establishing the bounds between monarchy and despotism, and the parliament declares that "to remove the sacred veil which conceals the limits of authority is to inspire distrust and start a dangerous agitation."[1] Here the argument for uncertainty and absence of definition is advanced in the interest of domestic peace; on another occasion the same argument is used in the interest of safety from outside intervention:

> The French government is indefinable, incomprehensible; and it is precisely that which gives it all its force. Unable to descry or estimate the extent of its resources, the enemies of this state cannot inflict upon it serious injury, much less destroy it.[2]

If we remember that intelligent Frenchmen had always a tendency to lapse into this anti-constitutional frame of mind—a tendency thus to worship indefiniteness and mystery—we shall better appraise the difficulty of introducing into France a well-ordered government.

As it is my purpose later to adduce evidence of a constitutional concept actually existent before the Revolution, it is only fair to admit at the beginning how little the concept had been able outwardly to accomplish, and in what an apparently serious predicament France found herself as she approached the end of the old régime. In March, 1789, Séguier declared:

> The present situation of France is like that of a numerous fleet buffeted by a tempest, unable to use the signals agreed upon; the vessels, beaten about by opposing winds, obey the foaming wave, collide, separate and meet again.[3]

The Baron de Besenval thus describes the pre-revolutionary anarchy:

> The general spirit of revolt, the conflict of diverse interests, had at

[1] Recueil de remontrances des parlements (Paris, 1775), vol. ii, p. 487. Bib. Nat. Lb. 38, 1256.

[2] Chaillon de Jonville, Apologie de la constitution française, ou États républicains et monarchiques comparés dans les histoires de Rome et de France (1789), vol. i, p. 143. Bib. Nat. Lb. 39, 1272.

[3] Speech of Séguier in the Parliament of Paris on March 17, 1789. Journal général de France, 1789, p. 131.

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last produced a ridiculous caricature of civil war, which, without chiefs, without poignards, without poison, without the shedding of blood, nevertheless had all the evils attendant upon intestine strife.[1]

Mounier, with his accustomed clearness, sums up the situation as follows:

France alone, perhaps, presented the extraordinary spectacle of two authorities, alternately victorious and subdued, concluding truces but never definitive treaties and, in the shock and impact of their pretensions, dictating contrary mandates to the people. These two authorities were that of the king and that of the parliaments or superior tribunals.[2]

Linguet, the erratic journalist and advocate, in 1777 lends his facile pen to the portrayal of the conflict of powers.

In France . . . the monarch calls himself the nation; the parliaments call themselves the nation; the nobility calls itself the nation; it is only the nation itself that is not permitted to say what it is or even to give evidence that it exists. While we wait for the situation to be clarified, all is confusion; everything serves as a basis for claims and as matter for dispute. The royal authority, incessantly advancing or receding, knows no bounds which it dares not cross and no limits behind which it cannot be forced to retreat.[3]

In his history of the decline of the French monarchy, Soulavie remarks:

Of this struggle between the claims of military force and the claims of the parliaments was born a government which I will not call a free government (in which the powers are divided, defined, classified and established . . . as in England), but there was born this *gouvernement hermaphrodite* . . . which now crushed the revolutionary opposition of the parliaments by a *coup d'état*, and the following year submitted to the spirit and terms of the parliaments' representations.[4]

[1] Mémoires du Baron de Besenval (Paris, 1821), vol. ii, p. 306.

[2] Recherches sur les causes qui ont empêché les Français de devenir libres, et sur les moyens qui leur restent pour acquérir la liberté (Geneva, 1792), vol. i, p. 11. Bib. Nat. Lb. 39, 5705.

[3] Linguet, Annales, vol. i, p. 17.

[4] Histoire de la décadence de la monarchie française (Paris, 1803), vol. i, p. 238. Bib. Nat. La. 29, 10.

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An English observer writing in 1769 is sure the French monarchy is absolute, and thinks he discerns the cause.

> Such a system of government could scarcely be framed for any purpose but to render arbitrary power wonderfully secure. It effectually deceives the people; for to their minds, so infatuated with the magnitude of their idea of the *grand monarque*, such resolute opposition as his edicts sometimes meet with in parliament amazes them and gives them a notion of liberty, which renders the truth less apparent. It is incredible what numbers of Frenchmen will insist violently that their king is far from being absolute—that they are a free people—and that the legislative power resides not in the king, but jointly with his parliament.[1]

At the outbreak of the Revolution a French writer expressed substantially the same view as to the ineffectiveness of the parliaments:

> The parliaments, attached to antiquated forms, did sometimes make good their opposition; but they were easy to overcome by negotiation and by offering advantageous terms to those members who had the most influence. Ignorance of the affairs of state characterized these great bodies, and it was easy for an adroit minister to present matters to them under a favorable aspect; their remonstrances were often agreed upon with the court and replied to in advance, and the most eloquent protests were become but commonplaces.[2]

These contemporary opinions, it must be confessed, go to indicate not merely that France had no constitution, but that the French had no clear idea of a constitution. It must however be borne in mind that the outward and apparent *status quo* is not always indicative of the real advance made by ideas.

It is manifest that the first step toward establishing constitutionalism is to destroy the claim to absolute, arbitrary power. We find very early and very positive utterances by Frenchmen to the effect that the royal authority is limited; that France is a monarchy but not a despotism. There was most emphatic op-

[1] Letters concerning the Present State of the French Nation (London, 1769), p. 142. Bib. Nat. Lb. 38, 1563.

[2] Gabriel Sénac de Meilhan, Des principes et des causes de la Révolution en France (London, 1790), p. 35.

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position to the doctrine that the monarch's far-sightedness and perception of his own interest as bound up with that of his subjects would operate to keep him within just limits; such a self-imposed restraint is characterized as a *sauve-garde trompeuse*.[1] A limit, which perhaps was hardly less fictitious, was found in divine law and precept. Frenchmen were often ready enough to admit that kings were God's earthly agents, but they demanded that the kings act in harmony with God's laws. Seyssel, an early writer on public law, mentions "religion" as the first of the three restraints upon kingly power.[2] In July, 1549, Henry II, in an interview with Chancellor Olivier and the first president of the Parliament of Paris, was admonished of his duty and was asked: "Can kings, transcending the common virtues, do anything more lofty, more royal and more divine than to conform themselves to God in the administration of justice?"[3] A century later it was asserted that

> The necessity of doing well and the inability to fail are the highest degrees of all perfection. God himself, in the opinion of Philo the Jew, cannot do more, and it is this divine impotence which sovereigns, who are God's likenesses upon earth, ought especially to imitate in governing their states.[4]

Bossuet insisted that "the people ought to fear the prince; but the prince ought to fear to do evil."[5]

Out of this restraint imposed by religion was derived the famous doctrine of the "happy inability" (*heureuse impuissance*) of kings, which was used by publicists and parliaments in the manœuvres of opposition down to a very late date.

> There are laws which our kings are fortunately incapable of changing

[1] Arrêté du Parlement de Bordeaux du 26 mars 1771; p. 3. Bib. Nat. Lb. 38, 1158. Also Arrêté du Parlement de Rennes du 16 mars 1771, Recueil, vol. ii, p. 289. Bib. Nat. Lb. 38, 1256.

[2] La grande monarchie de France (1541), pp. 11, 12. Bib. Nat. Le. 4, 1.

[3] Archives Nationales, MSS. U933, p. 380.

[4] Traité des droits de la reyne très-chrétienne sur divers États de la monarchie d'Espagne (Paris, 1667), part ii, p. 191. Bib. Nat. Lb. 37, 3566B.

[5] Politique tirée des propres paroles de l'Écriture sainte, Oeuvres complètes (éd. Lachat, Paris, 1864), vol. 23, p. 564.

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. . . those laws which, taking their rise in eternal justice, impose upon all sovereigns, no matter how extensive their power, the rigorous obligation of respecting legitimate rights, of judging equitably, of not deciding except according to law, of shunning despotism and of consulting, in all acts of government, the interest of the public weal. These laws, dictated by the Author of Nature, are the primitive foundation of all society and are binding upon all authorities, even the most absolute.[1]

The men who disputed the king's divine right hesitated to proclaim unreservedly the severance of God's authority from temporal affairs; accordingly they accepted the *vox populi vox Dei* argument. In 1771 a radical writes:

It must not be imagined that the monarch is inferior or submissive to the people over whom he has a right to rule; but he is incontestably subject to the will of God, which, in temporal governments, is legitimately manifested by the voice of the people . . . In accordance with the express terms of the consecration of our kings, the right to reign is no other than that of governing according to the will of God; indeed, our monarchs promise to do thus when they swear to rule in harmony with the best advice given in the council of their liegemen.[2]

In 1771 this was no longer new doctrine, for the people's control over the inauguration and administration of kings had already for generations been insisted upon. In 1717 Massillon, the newly appointed bishop of Clermont, preached a series of sermons before the young king, Louis XV, with wholesome admonitions which that monarch would have done well to heed.

Sire, a magnate, a prince, is not born for himself alone; he owes himself to his subjects. The people, in elevating him, have confided power and authority to his keeping and have reserved for them-

[1] Développement des principes fondamentaux de la monarchie française, par Jannon et autres magistrats émigrés (1795), p. 29. Bib. Nat. Le. 4, 106 Réserve.

[2] Inauguration de Pharamond; ou Exposition des loix fondamentales de la monarchie française, avec les preuves de leur exécution, perpétuées sous les trois races de nos rois. This pamphlet is contained in vol. ii of Les efforts de la liberté et du patriotisme contre le despotisme du Sr. de Maupeou, chancelier de France, ou Recueil des écrits patriotiques publiés pour maintenir l'ancien gouvernement français. London, 1775. Bib. Nat. Lb. 38, 1303.

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selves the right to his care, his time, his vigilance. He is not an idol that they have made to worship; he is a guardian put at their head to protect and defend them. He is not of those useless divinities which have eyes and see not, tongues and speak not, hands and perform not; he is of those deities who go before the people . . . to conduct them and guard them. It is the people who, by the command of God, have made our sovereigns what they are . . . Yes, Sire, it is the choice of the nation that first placed the scepter in the hands of your ancestors; it is the nation that lifted them upon the military shield and proclaimed them kings.[1]

Out of the theocratic notion of government, and doubtless as a consequence of the theory that the voice of the people was the voice of God, sprang the concepts of *contrat social* and *volonté générale*, which received such extended treatment at the hands of eighteenth century philosophers and publicists. The people, foreseeing the advantage of being ruled by a monarch, choose, by expressing their *volonté générale*, a king. This *volonté générale* remains forever the guide, the norm, of royal action. To the popular will must the king's will conform, before the king's will can be said to be a *volonté légale*.

There was, however, an ambiguity in the term *volonté légale*. Just as French kings, in the natural course of events, had legitimate children and legitimized bastards, so, in the realm of legislation, they had lawful volition and volition made lawful. This distinction was perfectly clear to Frenchmen when they took the trouble to formulate their political ideas; but for the two concepts they had but a single expression, that of *volonté légale* or its equivalent, *pouvoir légal*, and this poverty of phrase at times led to confusion of thought. The term "lawful volition" connotes a realm of powers and capacities at the complete disposal of the monarch by virtue of constitutional grant and allowance, while the concept "volition made lawful" refers merely to the monarch's right to propose and initiate legislation, subject always to the right of a competent body to veto, to amend or to confirm any such proposed legislation.

[1] Petit carême de Massillon, évêque de Clermont. Paris. Bib. Nat. Inventaire "D" 71092.

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Taking up, then, the subject of "lawful volition," and neglecting for the moment the idea of "volition made lawful," we are confronted at the outset by numerous rules for the monarch's guidance. Let it be understood that these rules vary according to the preconceptions and the politics of writers. In the minds of radicals, they are barriers; in the minds of absolute monarchists, they are the generously contributing sources of royal power. It may be not amiss to utter the warning that I shall always incline to quote the radical view, for it is to the extremists all along the line that we are indebted for the development of the constitutional idea in its fullest elaboration.

We may consider, then, the realm of the king's "lawful volition" as the realm of those residuary powers left the monarch after subtracting the laws and principles established for his guidance. These laws and principles are variously named. They are the *lois fondamentales, constitutives, constitutionnelles, primitives, primordiales, essentielles, immuables, permanentes, inébranlables, indestructibles.*

Whence come these "laws"? Their origin is differently described as divine, natural, traditional and reasonable. They are imposed by God, by nature, by custom, by compact and by gratuitous self-limitation on the part of the sovereign. Especially do the opponents of absolutism ascribe to this last method the origin of the *lois fondamentales.* That was a polite ruse to mollify the king and lull him to sleep with the assurance that his predecessors, realizing their human weakness and fallibility, had voluntarily disburdened themselves of their omnipotence and confided large powers to a safer and wiser keeping than their own. The king was credited with upright intentions and an inexhaustible fund of good-will, but he was reminded that his *volonté* was liable to surprise by crafty, unprincipled courtiers, and that out of the goodness of his heart and the fulness of his exchequer he was likely to be led astray. This unflattering ascription of a self-acknowledged fallibility seemed less brutally hostile and offensive than would be any direct assertion of a limit imposed from outside. So we shall expect to find that monarchs frequently took patriotic precautions against themselves and irrevocably deprived themselves of the free exercise of certain im-

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portant powers. It is expressly stated that what the king has thus given, the king cannot take back.[1]

The *lois fondamentales* as imposed by God and by nature have already been briefly noticed in connection with the restraints imposed upon the monarch by religion. These laws find their best exponent in Bossuet;[2] but Bossuet was in effect an absolute monarchist,[3] and furthermore his intent was "rather to offer counsels or moral teachings than to establish principles or rules of law."[4]

When, in the passages thus far cited, Frenchmen speak of the laws fixed by nature, it is usually Nature capitalized and, by implication, nearly if not quite synonymous with God. But this is misleading, because the ideas associated with nature had the most various applications; nature furnished above all, the sanction for Rousseau's *contrat social*. Especially does Burlamaqui associate the idea of *natural* fundamental laws with the idea of contract. He considers the *lois fondamentales* in two divisions, the "natural" and the "positive," and places in the former category

the promises, whether express or implied, by which kings upon their accession to the throne bind themselves, even by oath, to govern according to the laws of justice and equity. Accordingly these laws include all the obligations which spring from the original causes of the formation of states.[5]

[1] "Ne concluez pas . . . que si le parlement tient tout du roi, celui qui lui a tout donné peut tout lui ôter." Lettre d'un vrai patriote à M. Créthieu de Lamoignon, garde des sceaux de France, May 20, 1788, p. 6. Bib. Nat. Lb. 39, 558.

[2] "C'est principalement de ces lois fondamentales qu'il est écrit, qu'en les violant, 'on ébranle tous les fondements de la terre' (Psal. 81, 5), après quoi il ne reste plus que la chute des empires." Bossuet, *op. cit.* p. 500.

[3] *Ibid.* 532, 533.

[4] "[Il] présente plutôt des conseils ou des préceptes de morale, qu'il n'établit des principes ou des règles de droit." J. E. M. Portalis, De l'usage et de l'abus de l'esprit philosophique durant le xviii^e^ siècle (Paris, 1834), vol. ii, p. 213. Ed. 1820, vol. ii, p. 269.

[5] Cited in Billaud-Varennes, Despotisme des ministres de France (Amsterdam, 1789), vol. ii, pp. 25, 26. Bib. Nat. Lb. 39, 1320.

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By such degrees does the idea of nature imperceptibly merge into the conception of contract.

The bewildering mass of material upon the subject of the *contrat social* need present no serious obstacle to our research, if we bear in mind that our quest is simply to ascertain the alleged basis and origin of the *lois fondamentales*. Everything which contributes to that end is grist for our mill; all else is chaff.

So early as 1667 we find an assertion which, intrinsically and in the absolute, is so remarkable and, relatively, is so germane, that it merits quotation:

> Inasmuch as the fundamental law of the state has established a reciprocal and eternal bond of union between the prince and his descendants on the one part, and the subjects and their descendants on the other, by a sort of contract which provides that the sovereign shall reign and the people shall obey, neither party alone, at its own pleasure, can free itself from so solemn an engagement in which the two parties have bound themselves each to the other to render mutual assistance—the authority to rule representing an obligation quite as strict in its way as the duty to obey.[1]

Noteworthy as this statement is, it will be observed that it emphasizes mainly the inability of the monarch legally to cease governing according to the original contract with the people. There is no attempt to elaborate the idea of *lois fondamentales*; in fact, only one such law is insisted upon. The most direct and unequivocal statement that the *lois fondamentales* in general arise from agreement is to be found in Diderot's article on "*Loi*" in the *Encyclopédie*, where he declares that

> the fundamental laws of a state . . . are compacts between the people and that person, or those persons, upon whom the people confer the

[1] "La loy fondamentale de l'État, ayant formé une liaison réciproque et éternelle entre le prince et ses descendants d'une part, et les sujets et leurs descendants de l'autre, par une espèce de contrat qui destine le souverain à régner, et les peuples à obéir, nulle des parties ne peut seule, et quand il luy plaît, se délivrer d'un engagement si solennel, dans lequel ils se sont donnez les uns aux autres pour s'entr'aider mutuellement: l'autorité de régner n'étant pas moins une servitude en sa manière que la nécessité d'obéir en est une." Traité des droits de la reyne, *etc.*, part i, p. 169.

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sovereign power; and these compacts determine the manner in which the government shall be conducted and prescribe limits to the sovereign authority.[1]

The same author even goes so far as to say that "the original act of association bears the name of the fundamental laws of the state, for the reason that they constitute the basis of its security and liberty."[2]

Having now shown that the *lois fondamentales* were said to have originated in God, in nature, in contract and in the sovereign's voluntary grant, it remains for us to consider their origin in tradition and immemorial custom. We are wont to ascribe to the Teutonic peoples, and particularly to the English, a reverence for antiquity as such, and to account for their present status by showing the tenacity with which they have retained things out of sheer conservatism, after the original *raison d'être* has long since disappeared. I am not prepared to assert that the Gallic people are not more prone to innovation than the Teutonic; but this I know, that in casting about for pretexts of opposition to authority and in proposing remedies for despotism French publicists repeatedly said: "Let this be so because it has been so, because it has been consecrated by time and usage." The appeal to precedent was a very strong appeal, and was used with great effect. Indeed, it was from the accumulation of precedents, from the slow accretion of custom and tradi-

[1] "Les lois fondamentales d'un État . . . sont des conventions entre le peuple et celui, ou ceux, à qui il défère la souveraineté: lesquelles conventions règlent la manière dont on doit gouverner, et prescrivent des bornes à l'autorité souveraine." Encyclopédie ou Dictionnaire raisonné, *etc.* (3me éd., Livourne, 1773), vol. ix, p. 598.

[2] "L'acte primordial d'association . . . porte le nom de lois fondamentales de l'État, parce qu'elles en constituent la sûreté et la liberté." *Ibid.*—It is interesting to note that sometimes the people were conceived of as having established the monarchy by an agreement among themselves indeed, but not by any contract with the man chosen as monarch. The king thus becomes a mere office-holder, with no irrevocable right to his office. "L'acte par lequel un peuple se soumet à des chefs n'est point un contrat. Ce n'est absolument qu'une commission, un emploi dans lequel, simples officiers du corps politique, les chefs exercent en son nom le pouvoir dont il les a fait dépositaires, et qu'il peut limiter, modifier et reprendre, quand il lui plaît; l'aliénation d'un tel droit étant incompatible avec la nature du contrat social, et contraire au but de l'association." L'Ami des Loix (1771), p. 7. Bib. Nat. Lb. 38, 1071.

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tion, that the fundamental laws drew their origin and their force.[1] As the English common law is a residuary quintessence of countless decisions of the judicial courts, so in old France the fundamental and the quasi-fundamental maxims of government and administration were the resultant of a mass of royal ordinances, in the making and promulgation of which the parliaments had had sometimes an advising, sometimes a deciding voice.

It is evident that if the basis of French government was imbedded in and composed of the multifarious acts of legislation which had gone before, it was necessary to have some means of determining at any given moment the actual status of this ever-developing constitution. It is precisely this need which the French parliaments, Parisian and provincial, attempted to satisfy. These bodies, offshoots of the old *curia regis* and intended by the monarch to perform chiefly judicial duties, were permitted nevertheless to register royal edicts. That was the king's way of getting his legislative will before the people. The ceremony of registering was at first but a simple, secretarial performance, but in time it made the parliament a powerful engine of administration and also the final resting place of the laws. Holding in its possession the records of untold edicts and ordinances, the parliament by degrees assumed the position of the watch-dog of legislation, and arrogated to itself the right to oppose and veto new laws which it might see fit to declare not in harmony with the French constitution. In the bitter conflicts over proposed enactments, the king, with the ever imminent menace of armed soldiery and the more insidious menace of *lettres de cachet*, was able in the last instance to compel outward

[1] Lepaige, in the course of his argument for such constitutional limitations as the parliaments tried to establish, discusses the *lois fondamentales*. He has just described the origin of the Salic law, and continues: "Presque toutes nos autres loix fondamentales sont dans le même cas; également établies sur une tradition, qui remonte à l'origine même de la monarchie, et dont nous ne trouvons les premiers vestiges que dans Tacite" (!) . . . Again, in his effort to render undoubted the antiquity of the *lois*, he declares that "les différens peuples Germains, en s'établissant dans les pays qu'ils occupent aujourd'hui, y portèrent les loix fondamentales de leur État." Lettres historiques sur les fonctions essentielles du parlement, sur le droit des pairs, et sur les loix fondamentales du royaume (Amsterdam, 1753-54), pp. 11, 12. Bib. Nat. Ld. 4, 2563.

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obedience to the royal will. But in the struggle to establish well-grounded legal justification for its claims, the parliament had nearly always the advantage, because of its jealous guardianship of the records of the past.[1]

Composed, like the other parliaments, of trained advocates, the Parliament of Paris made the registered laws of centuries support each pretension it put forth. Keen to detect an unwary admission of royal *impuissance*, unscrupulous in the distortion of phrases, adept in the juxtaposition of originally unrelated utterances, this body for generations mangled and remade the legislation of the past to suit itself.[2] To its skilful manipulation of what would seem to be unpromising material is due the plausibility of the remonstrances which it was allowed to make prior to registering new laws. These remonstrances, seemingly founded on justice and uttered in tones of candor and of righteous indignation, printed and spread broadcast over the land from every one of the thirteen parliaments as a distributing center, had incalculable influence in acquainting the intelligent

[1] It may be thought that the crown would have equal opportunity with the parliament for access to the records of legislation, could successfully refute the latter's citations and thus destroy the incipient, tentative constitution. Reasonable as that supposition appears, it is not sustained by the facts. The predicament of the crown cannot be better described than in the words of Moreau in his Mémoire sur la formation d'un cabinet de législation au contrôle général des finances, mai, 1759: "Dans les différentes contestations qui, depuis plusieurs années, ont importuné l'autorité du roy et troublé la paix intérieure qu'il voulait maintenir, on ne s'est apperçu que trop souvent de la disette où l'on était à la cour, et de bons recueils de loix et de gens qui prissent la peine de les feuilleter. Les compagnies (parlements) se fondaient sur celles qui paraissaient appuyer leurs prétentions, et, faute de connaître aussi bien qu'elles les sources où elles puisaient, on restait souvent embarrassé de la réponse, et l'on n'appercevait pas celles que les monuments de notre législation auraient pu fournir au ministère. Cet avantage que les compagnies se sont procuré par de profondes études, dont elles ont abusé quelquefois, les a enhardies. Leurs prétentions ou n'auraient point éclaté, ou se seraient renfermées dans de justes bornes, si ces corps eussent senti que la cour avait autant de connaissances qu'eux." Le comité des travaux historiques et scientifiques, vol. 73, part 1, p. 3.—Moreau repeats his contention in 1762 (*ibid.* p. 47) and in 1764 (*ibid.* p. 83).

[2] The indictment which is here brought against the Parliament of Paris will find its justification in a perusal of the three volumes of the remonstrances of this parliament during the reigns of Louis XV and Louis XVI, published by Professor Flammermont. An examination of the protests made by the provincial parliaments simply reinforces the impression made by Flammermont's collection.

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and, above all, the numerous legal class with the available grounds and pretexts for opposition to royalty.

The opposition was always accompanied by an appeal to the French constitution, and the constitution at any given time was the patch-work product which the parliament saw fit to make it. Nevertheless, despite the frequent inconsistency of its claims, the parliament found it advantageous in the main to urge continually the same limitations on the crown, and in consequence there grew up a pretty definite scheme of fundamental law. The importance of this usurped and often ill-maintained prerogative of interpreting the constitution cannot be overestimated. Unrecognized by the king, the claim was sanctioned by the people, and the parliament at times took on the aspect of a national body, in some measure representative of the people.[1]

Let us now examine some of the most generally recognized of the alleged fundamental laws and particularly those rules which best expressed the eighteenth century idea of a constitution.[2]

First of all, there were the numerous maxims which assured the continuance of monarchy. Even the radical opponents of the crown, in order to ward off the imputation of treason, began their attack with full-mouthed protestations of loyalty to the reigning house and in the opening sentences conceded a pleni-

[1] Mémoires d'Argenson, vi, 452; August, 1751: "Ici le parlement intéresse la nation, évoque la constitution fondamentale, voilà de quoi la faire révolter!" *Ibid.* ix, 249; April 14, 1756: "L'on observe que tous les parlements font des remontrances avec hardiesse pour peu de chose, et comme sûrs de l'emporter; que le peuple, dans les halles, commence à parler de lois fondamentales et d'intérêts nationaux, ce qui marque une fermentation dangereuse contre l'autorité." Mémoires secrets d'Augeard, p. 81: "Il faut bien que le roi soit maître du parlement, mais que personne ne le croie; sans cela tout serait perdu."

[2] The early disagreement as to what were the undoubted *lois fondamentales* has been well discussed by a modern writer, Georges Weill, Les théories sur le pouvoir royal en France, pendant les guerres de religion (Paris, 1891). Weill writes (p. 278): "Aucun de ces théoriciens [of the 16th century] . . . ne manque d'insister sur les lois fondamentales du royaume . . . Il est difficile d'en dresser la liste exacte; . . . on n'en peut citer qu'une, l'inaliénabilité du domaine, sur laquelle tout le monde se mette d'accord . . . l'un y voit un avantage pour le royaume, l'autre pour le roi." The uncertainty as to the precise content of the *lois fondamentales* continued throughout the old régime, though public opinion tended increasingly to enlarge their scope and application.

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tude of power which progressively dwindled with each succeeding phrase. Of course, it is unnecessary to state that the avowed supporters of absolutism eagerly availed themselves of the catchword "fundamental law" to clinch the argument for prerogative.

The Salic law, the inalienability of the territorial domain and the obligation to defend it—these were the foundation stones of the venerable edifice of monarchy.[1]

The statement of the rights of the crown is usually accompanied by a statement of the limitations upon royal power, with especial insistence upon the supremacy of law and the subordination of force.[2]

[1] "L'immutabilité du gouvernement monarchique; l'ordre de la succession au trône; l'indépendance de la couronne; l'autorité absolue du monarque, autorité qu réside pleinement, uniquement et essentiellement dans la personne du roi; l'inaliénabilité de cette autorité suprême, suivant la formule du serment de nos anciens rois." La tête leur tourne (1788), pp. 12, 13.

"La loi de la succession à la couronne aux mâles; la souveraineté du roi." Les vrais principes de la monarchie française, par l'Ami des Loix (1787), p. 3.

"Le droit de la maison regnante au trône, de mâle en mâle, par ordre de primogéniture, à l'exclusion des filles et de leurs descendants." Flammermont, iii, 745; May 3, 1788.

"En France la première loi fondamentale est que tout soit soumis à un monarque qui est la source de tout pouvoir politique et civil, et le fait exercer par des puissances intermédiaires subordonnées et dépendantes." Observations sur l'imprimé intitulé: "Réponse au citoyen qui a publié ses reflexions" (1770), p. 49.

"N'est-ce pas une loi fondamentale de l'État que chaque prince est obligé de transmettre sa couronne à son successeur avec toutes les prérogatives dont il a joui lui-même?" Lettres sur les remontrances du parlement (1753), p. 149.

[2] "La France est une monarchie gouvernée par le roi, suivant les lois." Flammermont, iii, 745; May 3, 1788.

The power of the monarch is limited by "la loi naturelle, par la loi divine, par les lois constitutives fondamentales de l'État, et c'est en cela que diffère essentiellement le monarque du despote." Richard (a Dominican), Lettres flamandes à un ami français sur les différens du monarque de France avec ses parlemens (Lille, 1788), p. 5.

"Toute puissance créée ne peut rien ordonner de contraire à la loi de Dieu, ou au droit naturel . . . Si le prince violait les loix fondamentales, les conditions sous lesquelles il a reçu la couronne, il n'y aurait aucune obligation de lui obéir." Maximes du droit public français (2nd ed., Amsterdam, 1775), vi, 113.

"Ce n'est pas la force, c'est la loi constitutive et fondamentale qui est la mesure commune des droits et des devoirs mutuels et réciproques du souverain et de la nation." Remontrances du Parlement de Besançon; March 11, 1771; Recueil, vol. ii, pp. 406, 407. Bib. Nat. Lb. 38, 1256.

In protesting against the use of the military power in civil affairs, the Parliament of

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In order to make good the protecting surveillance of the laws, it was necessary to establish the rights of parliament beyond question, by giving those rights an important place in the constitution. It may well be imagined that parliament was not slow to develop a theory of its own prerogatives and to erect those prerogatives into fundamental laws.[1]

It will be remembered that in considering the *volonté légale* and distinguishing between lawful volition and volition made lawful, it was shown that the monarch's lawful volition was his sphere of freedom limited by certain fundamental laws. Aside from that absolute freedom, it was not disputed that he had a degree of tentative liberty in legislation, for he had the undoubted right to frame and propose edicts and ordinances. It was necessary, however, at least according to the theory of parliament, that the will thus expressed be verified in a *cour souveraine*, according to the norms of the constitution, before it could become valid as law. As we have seen, the king was supposed thus to guard himself against "surprise."

In order to preserve the constitution inviolate, the parliament asserted that it could freely deliberate, follow deliberation by remonstrance, and finally even refuse to register at the king's command, in spite of *lit de justice* and *lettres de cachet*. At the

Paris utters a direct menace to royalty, saying that, if the king disregards the laws, "il ne subsisterait pour fondement à son trône que la force, qui peut être détruite par la force." Flammermont, ii, 435; January 18, 1764.

[1] Parliament quotes Francis I as saying: "Les lois fondamentales de son royaume étaient de ne rien entreprendre sans le consentement de ses cours souveraines, entre les mains desquelles résidait toute son autorité." Flammermont, ii, 69; November 27, 1755. "De droit constitutif et national, votre parlement, qui est la cour de France, a de tout temps été la première cour du royaume." Flammermont, iii, 257; January 8, 1775.

In order to insure its permanence, the parliament insisted that its members were not removable. *Ibid.* iii, 746; May 3, 1788.—They claimed to be untrammeled in the expression of their opinions: "La liberté des opinions est un de ces priviléges inhérens à l'institution des parlemens; elle est une des principales sources d'où sortent la vérité et la justice." Remontrances du Parlement de Dijon; March 15, 1759; Recueil de pièces sur l'histoire du Parlement de Besançon, vol. ii. p. 586.

There was, moreover, a limit to their obedience. "Le chef-d'œuvre de toutes ces ordonnances, Sire, est sans doute d'avoir posé des bornes à l'obéissance des magistrats." Remontrances du Parlement de Normandie; May 28, 1789. Bib. Nat. Lf. 25, 135, p. 21.

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ceremony of the *lit de justice*, it claimed the right to have the votes of its members counted, and declared that a majority vote in the negative would operate to veto the law proposed.[1] This was a clear violation of all the traditions of French monarchy, but the parliament was often able to effectuate its will by appealing to public opinion and preventing the execution of a law registered by the king's sole will. Moreau is one of the numerous authorities for the statement that a statute registered by force tended to become a dead letter.[2] How formidable Parliament's resistance might be, we can judge by the anxious remonstrance of a friend of royalty in 1787.

Parliament interprets the law, extends or restricts it at pleasure, keeps

[1] "Il est incontestable qu'en France le droit législatif réside dans la couronne seule, et qu'il ne s'étend pas moins sur les magistrats que sur les peuples." "Mais il est constant aussi qu'en France . . . toute volonté du monarque n'est pas une volonté légale; et que la formation des loix est essentiellement assujettie à certaines formes publiques, à certaines délibérations solemnelles." Observations sur la déclaration du 10 déc. 1756 au sujet de l'enregistrement des loix et de la discipline essentielle du parlement, p. 3. Bib. Nat. Lb. 38, 714.

"Le parlement est en effet l'organe des volontés légales des rois, et leur sagesse, autant que leur bonté, l'a établi, de toute ancienneté, leur conseil public et légal." Justification du parlement, ou Observations sur le discours de M. le Chancelier au lit de justice du 7 déc. 1770, p. 35. Bib. Nat. Lb. 38, 1060.

"L'ancienne forme du gouvernement français ne permet pas qu'aucune volonté du prince ait d'exécution publique et force de loi dans le royaume qu'elle ne soit précédée d'une délibération du parlement." Flammermont, i, 576; April 9, 1753.

"Maxime fondamentale, qu'il est d'une indispensable nécessité que toutes les lois reçoivent dans votre parlement leur dernière forme par l'enregistrement qui en est ordonné." Flammermont, ii, 31; November 27, 1755.

"C'est une maxime inviolable en France, que nulle loi, nulle institution publique, ne peut être établie dans le royaume que par la sanction du prince et le consentement du peuple." Arrêté du bailliage . . de Chaumont, March 16, 1771.

"C'est une loy fondamentale en France, que rien ne peut être imposé sur les sujets du roy, et qu'on ne peut faire aucun officier nouveau, que par le consentement du parlement, qui représente l'aveu général de tout le peuple." De la nature ou qualité du Parlement de Paris, in Mémoires sur le Parlement de Paris. Bib. Nat. MSS. nouv. acq. fr. 7981.

"La nation s'alarme, parce qu'elle se voit enlever ce droit incontestable, perpétuel, qu'elle a toujours eu d'examiner la loi, d'y donner son consentement, si elle l'approuve; de la rejetter, si elle lui paraît dangereuse; ou de la modifier si elle y trouve des inconvéniens." La nouvelle conférence entre un ministre d'État et un conseiller au parlement (1788), p. 25. Bib. Nat. Lb. 39, 559.

[2] Exposition et défense de notre constitution monarchique française, ii, 139.

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it silent or makes it speak, withholds or gives consent, nullifies governmental power or sets it in motion—is not this reigning like a despot? Thus it modifies the expressions of the royal will, imposes conditions before affixing the seal of its consent, demands from the king an account of his expenditures, marks out for him the path which he must follow if he wishes his edicts enforced.[1]

Especially under weak monarchs and during minorities, these courts of law wrought havoc with the kingship.[2]

From the point of view of political science, a valid excuse for the parliament's encroachments upon royal authority may be found in the use which it made of the power thus gained, in guaranteeing the liberties and immunities of Frenchmen. Its protestations of disinterestedness we may disregard altogether, but we must not neglect the substantial benefits which accrued

[1] "Le parlement interprète la loi, l'étend ou la resserre à son gré, la fait taire ou la fait parler, refuse ou consent, rend le pouvoir nul ou actif, n'est-ce pas là régner despotiquement? Aussi modifie-t-il les volontés royales, met-il des conditions au sceau de son consentement, demande-t-il compte au roi de ses dépenses, lui présente-t-il la route qu'il doit suivre s'il veut que ses édits soient exécutés." Lettres surprises à M. de Calonne (1787), p. 11. Bib. Nat. Lb. 39, 363.

[2] "Un des plus éclairés et des plus zélés parlementaires, à qui je demandais de me marquer précisément les bornes qui séparent l'usurpation d'avec le droit des parlements: 'Les principes,' répondit-il, 'en cette matière sont fort obscurs; mais, *dans le fait, le parlement est fort sous un roi faible, et faible sous un roi fort.*'" Mémoires de Duclos, Mémoires relatifs à l'histoire de France, vol. xxxiv, p. 551.

The power which parliament assumed during periods of minority is well indicated in a pamphlet published in the midst of the troubles of the Fronde. The author asserts that there are two important *lois fondamentales:* (1) "que nous ne reconnaissons en France qu'une seule autorité; (2) que nos rois l'ayant communiqué à leurs parlemens pour le bien de leurs subjets et particulièrement pour la conduite et l'administration des affaires du royaume, *il n'y a que les compagnies souveraines qui la puissent exercer légitimement pendant la minorité.*" Importantes véritez pour les parlemens, protecteurs de l'Estat, conservateurs des loix, et pères du peuple; tirées des anciennes ordonnances et des loix fondamentales du royaume (Dedié au Roy. Par I. A. D. Paris, 1649), p. 7. Bib. Nat. Lb. 37, 880.

Another Fronde publication, the famous Histoire du temps, opens with this paragraph: "La France opprimée par la violence du ministère rendait les derniers soupirs, lors que les compagnies souveraines, animées par le seul interest public, firent un dernier effort pour reprendre l'authorité légitime, que la mesme violence leur avait fait perdre depuis quelques années, parce qu'elle avait toujours esté *le plus fort rempart de la liberté publique, et comme le sanctuaire dans lequel s'estaient tousiours conservées les loix fondamentales de l'Estat.*" L'Histoire du temps, ou le véritable récit de ce qui s'est passé dans le parlement depuis le mois d'Aoust 1647 jusques au mois de Novembre 1648. Bib. Nat. Lb. 37, 1.

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to the public as an incidental result of parliament's consistent selfishness.

Of all immunities, the right to the peaceable possession of acquired property was the one most persistently upheld by the *cour souveraine*. Primarily, the magistrates asserted their own perpetual right to their offices, which they had paid for roundly and considered as an inviolable possession. Often, however, their opposition was enlisted against taxes and imposts, on the ground that the citizens could not be despoiled of their property without their consent.[1] Occasionally, as in the bitter struggle to defeat Turgot's attempts at the equalization of taxes, the parliament stood out with unreasonable obstinacy as the champion of the privileges and exemptions of nobility and clergy.[2]

Unworthy as were the original motives of parliament, its restless ambition led to an enunciation of general principles, to which it became natural to give a wider application than had at first been intended. In its very hide-bound conservatism and with a view to maintaining itself intact, this body protested ve-

[1] "Nul citoyen ne peut être dépouillé de sa propriété que par l'effet d'un acte volontaire ou d'une condamnation légale; c'est le texte des lois et le vœu connu de votre cœur." Flammermont, iii, 389; April 25, 1777.—"Que la première de toutes les loix, celle qui existe avant les empires et les rois, celle que la nature a donné et que la nature seule pourrait ravir, est la loi de la propriété." Arrêté de la Cour des Aides, August 18, 1787. Bib. Nat. Lb. 39, 401.—"Toute loi qui garantit la propriété est loi fondamentale; tout ce qui y porte atteinte attaque la constitution de votre État." Lettre du Parlement de Normandie au Roi, February 26, 1771; Recueil, vol. ii, p. 214. Bib. Nat. Lb. 38, 1256.—"La justice, Sire, est le premier devoir des rois . . . La première règle de la justice est de conserver à chacun ce qui lui appartient, règle fondamentale du droit naturel, du droit des gens et du gouvernement civil." Moreover, the inequality and the exemptions of the *ordres* are of divine origin. Flammermont, iii, 278 and 279; March 24, 1776.

[2] Turgot's reform is one which "tend évidemment à l'anéantissement des franchises primitives des nobles, des ecclésiastiques, à la confusion des états et à l'interversion des principes constitutifs de la monarchie." *Ibid.* p. 292.—"Les Français ne peuvent être assujettis à aucun impôt sans leur consentement." Remontrance du Parlement de Bretagne, 1787; Bachaumont, Mémoires secrets pour servir à l'histoire de la république des lettres en France, depuis 1762 jusqu'à nos jours (London, 1789), vol. xxxvi, p. 321.—"Le principe constitutionnel de la monarchie française est que les impositions soient consenties par ceux qui doivent les supporter." Flammermont, iii, 682; August 6, 1787.

Later the parliament said that taxes must be granted by the Estates General assembled as they were in 1614. *Cf.* Flammermont, iii, 746; December, 1788.

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hemently that its members could be judged only by their associates. By an easy extension, that principle led to the general right of citizens to trial by peers, to *habeas corpus* and to freedom from *lettres de cachet*.[1] We cannot here enumerate all the liberties and exemptions which pamphleteers and parliaments from time to time elevated to the dignity of constitutional guarantees, but they were manifold, and they created a taste for constitutionalism which the Revolution was called upon to satisfy.[2]

[1] "Par la constitution de l'État, par une loi aussi ancienne que la monarchie elle-même, les officiers de votre parlement, qui se rendraient coupables, n'ont et ne peuvent avoir d'autres juges que votre parlement même." Remontrances du Parlement de Bordeaux; July 21, 1756; p. 51. Bib. Nat. Lf. 25, 107.—"Une maxime primitive, et qui subsiste encore dans notre gouvernement, fonda dans les premiers âges de la monarchie le droit de pairie en faveur de tous les citoyens . . . Le supérieur ne peut être jugé par son inférieur. C'est le principe annoncé dans les capitulaires de nos rois, puisé dans la nature même, et dont l'autorité subsistera toujours." Flammermont, ii, 59; November 27, 1755.—"Le droit de chaque citoyen de n'être jamais traduit en aucune matière devant d'autres juges que ses juges naturels, qui sont ceux que la loi lui désigne." *Ibid.* iii, 746.—"C'est une maxime de notre monarchie, que nul citoyen ne peut être constitué prisonnier sans un décret du juge." *Ibid.* iii, 716; March 11–13, 1788.—"Le droit, sans lequel tous les autres sont inutiles, celui de n'être arrêté, par quelque ordre que ce soit, que pour être remis sans délai entre les mains des juges compétents." *Ibid.* iii, 746.—It is a "maxime" or "loi fondamentale" . . "que les lettres de cachet ou les ordres verbaux n'ont aucun empire sur le fait de la justice, et que les juges sont non-seulement autorisés à n'y avoir point d'égard, mais qu'il leur est formellement enjoint de n'y point obéir." Maximes du droit public français (2nd ed., Amsterdam, 1775), ii, 83. Bib. Nat. Le. 4, 53B.

[2] The first *loi fondamentale* is "le salut du peuple, qui forme la loi suprême."—Maximes du droit public français, vi, 113.

A sweeping *loi fondamentale* is "La liberté politique de tout Français naissant libre." Les vrais principes de la monarchie française, par l'Ami des Loix (1787), p. 3. Bib. Nat. Lb. 39, 398.—"La liberté n'est point un privilége, c'est un droit, et respecter ce droit est le devoir de tous les gouvernements." Flammermont, iii, 720; March 11–13, 1788.

"Il est indubitable que la nation a le droit de se convoquer elle-même . . . selon les besoins de l'État." This remarkable statement is found in a pamphlet already quoted, written in 1771: Inauguration de Pharamond; ou Exposition des loix fondamentales de la monarchie française.

"Une premiere maxime incontestable . . c'est que nul homme ne peut exiger de son semblable une obéissance aveugle en toute occasion. L'homme, en qualité d'être doué de raison, ne peut, sans déroger à sa nature, renoncer à l'exercice de sa raison . . Une seconde maxime parallèle à la première, c'est que nul homme ne peut promettre une obéissance aveugle." These are extracts from the Lettre à M. le Comte de . . . , ancien capitaine au régiment D . . sur l'obéissance que les militaires doivent aux commandements du prince, a pamphlet contained in vol. iii of Les efforts de la liberté, already cited.

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In estimating the forces at work in the old régime which prepared men's minds to appreciate the need for a written constitution, it is not sufficient to expatiate on the limitations advanced as *lois fondamentales*. Those laws, whatever sacredness and permanence their advocates ascribed to them, were but sorry makeshifts after all and could afford no lasting satisfaction to men who saw things clear and whole. Their flimsy fabric could offer no adequate barrier to despotism, though a momentary triumph might create the opposite impression. The men who realized this insufficiency, who levelled the shafts of their ridicule against the fragile ramparts of the *lois fondamentales* and who demolished the pretensions of the courts of justice—these men deserve some credit for hastening the dawn of the constitutional era. Their service was not one of construction, but they did good work in creating dissatisfaction with things as they were.[1]

Not only did the France of 1789 lack fundamental laws which could claim to be permanent and effective delimitations of power, but she lacked altogether a body of law having general, uniform application to all parts of the realm alike. Nay, worse than that, the provinces and especially the *pays d'état* aspired to such complete local autonomy that unity in the government of France seemed hopelessly impossible. Relying upon con-

[1] There is no more delectable morsel than the rich satire of Voltaire upon the *lois fondamentales*. *Cf.* Très-humbles et très-respectueuses remontrances du grenier à sel, 1770, contained in Oeuvres (éd. Beuchot, Paris, 1879), vol. 28, pp. 403 *et seq.* —Linguet (Annales, viii, 75) remarked in 1780: "Je ne sais si dans le droit il peut y avoir une *loi fondamentale*, comme un beau parfait et purement intellectuel. Mais je vois que dans le fait ni l'une ni l'autre n'existe."—There were many obscure pamphleteers who, about the time of the overthrow of the parliaments, gave vent to their disgust at the latters' pretensions. "Ainsi donc, *la barrière des parlements, défendue par la magie de ces mots 'loix fondamentales,'* quoiqu'il n'existât rien de tel dans la tête des parlements, comme dans celle des ministres et de quiconque sait ce qu'il dit quand il prononce le mot 'absolu,' *était une barrière aussi précieuse en France, contre les fantaisies journalières des ministres, que les visions de l'Alcoran le sont en Turquie, pour arrêter le despote dont la volonté-loi aurait bientôt tout bouleversé.*" Simplicité de l'idée d'une constitution et de quelques autres qui s'y rapportent, pp. 45, 46. Bib. Nat. Lb. 39, 10961.

After the Estates General had been converted into the National Assembly, the parliaments became targets for the scornful flings of the radicals: "N'espérez plus faire illusion par les termes imposans de *constitution*, de *loix fondamentales*, de *droits sacrés* et *inviolables*, de *maximes d'État, etc.*" L'Aristocratie magistrale, ou l'Esprit des parlemens de France (1789), p. 30. Bib. Nat. Lb. 39, 1759.

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ditions, real or pretended, which accompanied their union to the kingdom, the provinces asserted a right to separate administrations and separate constitutions, and now and again characterized themselves as separate nations.[1]

[1] Almost at the end of its career, in May, 1788, the Parliament of Paris asserted "le droit des cours de vérifier dans chaque province les volontés du roi et de n'en ordonner l'enregistrement qu'autant qu'elles sont *conformes aux lois constitutives de la province ainsi qu'aux lois fondamentales de l'État.*" Flammermont, iii, 746.—At the same time the Parliament of Brittany protests "contre toute loi nouvelle qui pourrait porter atteinte aux lois constitutives du royaume; aux droits de la nation française, en general; aux droits, franchises et libertés de la province de Bretagne en particulier." Protestation et arrêté du Parlement de Bretagne, May 5, 1788, p. 3. Bib. Nat. Lb. 39, 6392.—These particularistic ideas were very generally diffused "Chaque province a son droit particulier. La Bretagne a son contrat d'union et ses conditions; le Languedoc a ses titres; la Normandie a sa charte authentique et son échiquier: la Franche-Comté a sa capitulation; chaque province a sa cour souveraine, dont l'existence, les droits, l'inamovibilité sont aussi essentiels à la constitution de la province qu'à la constitution de la monarchie." . . . "Les loix générales que le prince est dans l'impuissance de changer, déclarent l'état des magistrats inamovibles: les titres de chaque province lui assurent un tribunal certain dépositaire de ses usages et de ses droits." Réflexions sur ce qui s'est passé à Besançon les 5 et 6 août 1771, pp. 11, 12. Bib. Nat. Lb. 38, 1245.—"On peut même dire qu'avant sa réunion à la France, la Franche-Comté avait été entièrement gouvernée par son parlement." Edouard Besson, Le Parlement de Franche-Comté et la Révolution française (Besançon, 1890), p. 4.

Any one of the numerous histories of French administration from the time of Richelieu to the Revolution will give examples of the efforts of the local parliaments at maintaining their former comprehensive jurisdiction over their respective provinces. Their conflicts with the "intendants" were a constant source of disquietude. "Le plus difficile pour l'autorité royale sera de soumettre les parlements provinciaux qui sont plus résistants et plus révoltés que celui de Paris. Ils sont tous complotés pour dépouiller les intendants de leur autorité." D'Argenson, ix, 372; December 25, 1756.—"C'est la constitution de la province qui l'a garantie des fléaux de la taille et de la gabelle, fléaux qui frappent directement la classe la plus pauvre . . . ." "L'atteinte que l'on voudrait porter à une constitution qui a garanti la Bretagne des maux auxquels sont exposées les provinces voisines, ne peut que préparer pour tous un avenir fâcheux." Arrêtés de la Cour du Parlement de Rennes, et du Conseil d'État du peuple de Rennes, January 8, 1789, p. 19. Bib. Nat. Lb, 39, 6796.—"Deux maximes également certaines, Sire, forment la partie la plus essentielle du droit public des pays d'états; ils vous doivent des subsides, et on ne doit point les exiger sans leur consentement." Remontrances du Parlement de Provence; March 28, 1760; p. 18. Bib. Nat. Lb. 38, 827—"Qu'il nous soit permis, Sire, en vertu des loix fondamentales de cet État, de *considérer la nation provençale comme une société que vous régissez séparément.*" Remontrances du Parlement de Provence; 14 janvier 1760; p. 2. Bib. Nat. Lb. 38, 819.—"C'est une loi fondamentale de cette province, qu'au-delà des droits domaniaux et régaliens, affectés au souverain, aucun subside ne puisse être levé sur les peuples, qu'il n'ait été consenti par les états, sous

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It would be interesting to trace the wavering, futile efforts of the thirteen parliaments to unite in the formation of a national legislative body, but the scope of this paper will permit no such excursus. Suffice it to say that the union of the parliaments failed of success because of the rampant particularism of the provinces. That particularism was fatal to any all-embracing, symmetrical constitution. It was still deeply rooted in 1789, and it is not impossible that it might have been perpetuated to our own time, had it not been for the tough little man from Corsica who gave France something else to fight about.

In conclusion, I trust that it has become evident in the course of this paper that, while the France of the old régime had no definite constitution, the idea of a constitution had germinated and attained good growth, and that the documents of the revolutionary era are reasonably explicable upon the basis of the documents which had appeared before.

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la forme de don gratuit et volontaire." That right is "la partie la plus essentielle du droit public de ce pays, puisqu'il est l'abrégé de sa constitution." . . . "Le droit qu'a cette province de s'administrer elle-même, suppose non seulement la faculté d'élire ses administrateurs, mais encore celle de repartir dans son sein les impositions pour les deniers royaux et ceux du pays; c'est sur ces deux bases que porte tout l'édifice de sa constitution." Remontrances du Parlement de Provence; November 5, 1756; pp. 21, 22, 48, 49. Bib. Nat. Lb. 38, 709.—"Vos lettres patentes portant établissement d'assemblées provinciales dans toutes les provinces qui n'ont pas d'états particuliers, nous ont été presentées; mais, Sire, ces assemblées ne sont point faites pour votre compté de Bourgogne, elles sont contraires à notre constitution; le vœu même de la loi nous en exclut formellement, puisque nous avons des états." Lettre du Parlement de Besancon au Roi, adressé à M. le Garde des Sceaux, le 30 juillet 1787, p. 3. Bib. Nat. Lb. 39, 382.—"L'idée systématique d'établir dans vos nombreux États un plan uniforme de gouvernement est inconciliable avec les divers intérêts locaux, avec la variété des droits de vos provinces"! . . . "Cette uniformité, impraticable dans les différentes provinces de votre royaume, ne peut, sous aucun rapport, s'appliquer à un pays [Navarre] qui n'a jamais été, qui n'est pas devenu une province de France." Remontrances et Arrêtés du Parlement de Navarre, des 21 et 26 juin 1788, p. 10. Bib. Nat. Lb. 39, 601.

"Quelqu'un faisait à un homme de génie cette question: 'Où sont donc les loix fondamentales du royaume?' Il lui répondit: 'Dans la coutume de Normandie'—mot d'un grand sens et d'une profonde sagesse." This passage, taken from Mirabeau's Mémoire sur les états provinciaux (which is to be found in part iv of L'Ami des Hommes, ou Traité de la population), shows how strong was the provincial-sovereignty doctrine in France before the Revolution.

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A GOLD STANDARD FOR THE STRAITS SETTLEMENTS. II.[1]

IN the first instalment of this article the history of the movement for the establishment of the gold standard in the Straits Settlements was briefly sketched, and the plan finally adopted in the spring of 1903 was outlined. This plan, it will be recalled, provided for the recoinage of the British and Mexican dollars then circulating in the Malay peninsula into new Straits Settlements dollars[2] of the same weight and fineness as the British dollar, and for the subsequent raising of the value of these new dollars to an unannounced gold par by means of limiting the supply, in accordance with the principle by which India raised the gold value of the rupee.

An order in council issued by his majesty the king, June 25, 1903,[3] authorized the governor of the Straits Settlements, with the consent of the secretary of state, to determine by proclamation a date upon which the new dollar should become the standard legal-tender coin of the colony, and upon which the Mexican dollar should be deprived of that quality. On October 2, 1903, there were issued, under authority of "the coin import and export ordinance, 1903," two orders in council,[4] the one prohibiting

[1] The first portion of this article appeared in the POLITICAL SCIENCE QUARTERLY, vol. xix, pp. 636–649, December, 1904, and was subsequently reprinted in the report on The Gold Standard in International Trade, submitted by the commission on international exchange to the secretary of war, October 22, 1904; pp. 451–460. Since that time the writer has made a special trip to the Straits Settlements for the purpose of studying the progress of the currency reform there, and the present discussion is based largely upon information collected during a two weeks' study of the situation on the ground.

[2] The Straits Settlements subsidiary silver coins were distinctive coins coined at the royal mint especially for the Straits Settlements. They were accordingly retained as part of the new system, as likewise were the copper coins.

[3] This order will be found printed at pp. 291, 292 in the report on the Stability of International Exchange, submitted by the commission on international exchange to the secretary of war, October 1, 1903. *Cf.* also article on "Money, Weights and Measures" in the Singapore and Straits Settlements Directory, 1899, appendix, pp. 19–21.

[4] *Cf.* Report on the Stability of International Exchange, p. 294.

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the importation of British and Mexican dollars into the colony[1] from the third day of October, 1903,[2] the other prohibiting the exportation from the colony of the new Straits Settlements dollars from the same date.[3] As a result of the monetary isolation of the Straits Settlements arising from these orders, merchants experienced for some time considerable difficulty in settling trade balances with other countries.[4]

By the end of the summer of 1904 the bulk of the old currency had been withdrawn from circulation, and on August 31 the governor issued an order removing the legal-tender quality from British and Mexican dollars and providing that they should thenceforward not be receivable in payment of government dues. On that date the old dollars ceased to be exchangeable for the new at government offices. "Thus," said the chairman of the Singapore chamber of commerce, in his address before that body on September 22, 1904,

> the second important step has been smoothly and successfully effected, and there is cause for congratulation that the ground has been cleared for the succeeding stages of the currency scheme. The careful guidance of the scheme so far by the government, notwithstanding its

[1] The Federated Malay States and Johore were excluded from the application of these orders. Report on the Stability of International Exchange, p. 294.

[2] At a later date, when a considerable part of the old currency was being tied up in the process of recoinage, and there was in consequence a scarcity of currency to meet trade demands, the government authorized the banks to import certain amounts of British and Mexican dollars for temporary use, on condition that they should be reëxported as soon as the scarcity of money arising from the recoinage should be over. In September, 1904, the governor in council, in response to an urgent petition of the Singapore chamber of commerce, issued an order exempting, until the Chinese New Year, British North Borneo, Labuan and Sarawak from the operation of the order prohibiting the importation of British and Mexican dollars into the Straits Settlements.

[3] This latter order has been to a considerable extent evaded. It is said that several hundred thousand of the new dollars are continually passing back and forth between the Straits Settlements and China. The order was suspended for a time, but was again put into operation on February 13, 1906. At one time about two million of the new dollars were exported to Hong Kong, where they brought a premium of between three and four per cent; and at another time, when it was feared that an excessive number of the new dollars had been coined, the governor permitted the exportation of some 500,000 dollars to Hong Kong on condition that they be chopped so that they could not be returned.

[4] *Cf.* Report of the Singapore Chamber of Commerce for the year 1904, pp. 5, 101–105.

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characteristic difficulties, must meet with cordial appreciation on the part of the mercantile community.[1]

The work of withdrawing the old coins and of recoining them was greatly facilitated by the fact that the government possessed in its currency note reserve a large supply of the old dollars, which it was able to commence shipping immediately to the Bombay mint for recoinage, and by the fact that it was able to use this reserve as a sort of continuing fund during the entire process of the recoinage.[2] Other circumstances of importance which assisted the government in expediting the recoinage were the facts that the recoinage was effected at the comparatively near-by city of Bombay, and that, as the result of the heavy influx of the old dollars in the summer of 1903, the local banks were oversupplied with these coins and shipped them in large amounts to Bombay for recoinage on the account of the government without interest charge.

The recoinage was completed about November, 1904. The total number of British and Mexican dollars sent to the mint to be converted was 35,372,541, and the total number of Straits dollars minted therefrom was 35,400,576.[3] The result of the recoinage was therefore a profit of $28,035, which must be deducted from the total expense of reminting, which amounted to $788,180.[4] By the end of November, 1904, the new dollars had been almost completely substituted for the old in the colony's circulation,[5] and the government was confronted with the task of raising the dollar to "whatever value in relation to the sovereign might be decided on" as the permanent gold par.

The course of appreciation is shown in the accompanying chart

[1] *Ibid.* p. 5.

[2] The government's note guarantee fund consists in part of coin and in part of securities. The average circulation of government notes for January, 1904, which was a typical month, was $16,503,167, and of this amount $10,231,006 was secured by coin. *Cf.* Report of the Commissioners of Currency for the Straits Settlements for January, 1904.

[3] There was in addition a withdrawal from circulation of about $250,000 in redundant small change, which was recoined into fifty cent pieces.

[4] *Economist*, vol. lxiii, part ii, p. 1672.

[5] Report of the Singapore Chamber of Commerce, 1904, pp. 4, 5.

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and table. It will be seen that Singapore rates fluctuated closely in harmony with the price of silver and with Hong Kong exchange[1] down to about March, 1904,[2] and that from that time forward until the fall of 1904 they fluctuated with those rates although at a considerably higher level. From December, 1904, to February, 1905, the average bullion value[3] of the Straits dollar was actually higher than the average sterling telegraphic transfer rate[4] in Singapore. The decline in the price of silver in March and April, 1905, was not accompanied by an appreciable decline in Singapore exchange, and from that time forward the divorce of the Straits dollar from the silver standard may be considered to have been effective.

On January 29, 1906, the governor in council issued an ordinance supplemented by an executive order declaring the sterling value of the new dollar to be two shillings and four pence.[5] Soon after this action had been taken, telegraphic rates settled

[1] The unit of value in Hong Kong is the "chopped" Mexican or British dollar. Unchopped dollars usually command premiums there of several per cent.

[2] The rise of Singapore exchange above Hong Kong exchange and above the bullion value of the dollar between July and October, 1903, was due to the anticipated redemption of British and Mexican dollars by the government at par in the new dollar, and, as pointed out in the previous number of this article, was the reason for the heavy influx of British and Mexican dollars into the Straits Settlements at that time. The supply finally became so excessive that exchange was forced down below bullion point between October, 1903, and January, 1904, and the dollars were reëxported in considerable quantities.

[3] By "bullion value" I mean the value of the fine-silver content of the dollar in London, according to the London prompt price (the price for immediate delivery) of standard silver, without allowance for shipping expenses.

[4] Sterling exchange rates in Singapore, as in Hong Kong, Manila and other Oriental port cities, are always quoted in terms of sterling instead of in terms of the local money. A telegraphic transfer rate of two shillings, for example, in Singapore, would mean that a dollar in Singapore would buy two shillings laid down by cable in London; a buying rate of two shillings for four-months local bills would mean that the banks would give a dollar for each two shillings of local bills drawn against exports and payable in London by the importer four months after sight. A rising exchange therefore signifies an increasing sterling value to the dollar, and a falling exchange a decreasing sterling value. Particular attention is called to this simple fact for the benefit of readers not familiar with the Eastern exchanges, because exchange rates in other countries are often quoted in exactly the opposite way.

[5] The procedure followed in "fixing" the value of the dollar is explained in detail *infra*.

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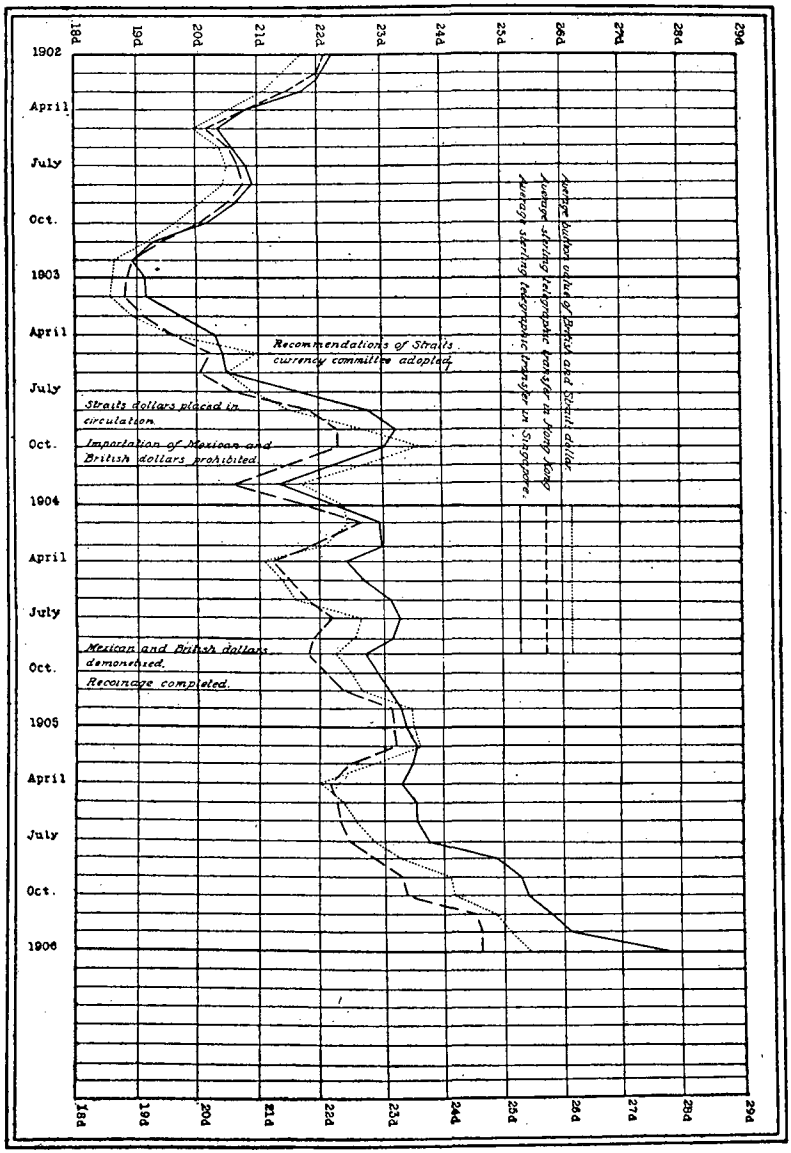
APPRECIATION OF THE STRAITS SETTLEMENTS DOLLAR.



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RATES OF STERLING EXCHANGE IN SINGAPORE COMPARED WITH RATES IN HONG KONG AND WITH THE BULLION VALUE OF THE BRITISH AND THE STRAITS DOLLAR

Date	Silver [1]		Hong Kong Sterling Exchange			Singapore Sterling Exchange					
			Telegraphic Transfers			Telegraphic Transfers			Four Months Bank Paper		
	Average price of standard silver in London	Average bullion value of British dollar [2]	High	Low	Average	High [3]	Low [3]	Average [4]	High	Low	Mean
1902	*d*	*d*	*d*	*d*	*d*	*d*	*d*	*d*	*d*	*d*	*d*
January	25 11-16	21 21-32	22 3-8	22	22 3-32	22 3-8	22 1-16	(22 7-32)	22 11-16	22 5-16	22 1-2
February	25 7-16	21 7-16	22	21 7-8	21 31-32	22 1-8	22	(22 1-16)	22 3-8	22 1-4	22 5-16
March	25	21 3-32	21 15-16	21 5-16	21 1-2	22	21 3-8	(21 11-16)	22 1-4	21 5-8	21 15-16
April	24 3-8	20 17-32	21 3-8	20 1-8	20 13-16	21 7-16	20 1-4	(20 27-32)	21 11-16	20 1-2	21 3-32
May	23 11-16	19 31-32	20 11-16	19 7-8	20 3-16	20 13-16	19 13-16	(20 5-16)	21 1-16	20 1-16	20 9-16
June	24 5-32	20 13-32	20 13-16	20 5-16	20 9-16	20 7-8	20 1-4	(20 9-16)	21 1-8	20 1-2	20 13-16
July	24 3-8	20 9-16	20 7-8	20 7-16	20 23-32	21 1-8	20 1-2	(20 13-16)	21 3-8	20 3-4	21 1-16
August	24 7-32	20 7-16	20 13-16	20 11-16	20 3-4	21	20 13-16	(20 29-32)	21 1-4	21 1-16	21 5-32
September	23 7-8	20 1-8	20 13-16	20 3-8	20 9-16	20 15-16	20 3-8	(20 21-32)	21 3-16	20 5-8	20 29-32
October	23 13-32	19 23-32	20 3-8	20	20 1-8	20 7-16	20	(20 7-32)	20 11-16	20 1-4	20 15-32
November	22 13-16	19 7-32	19 15-16	18 1-2	19 13-32	20 1-8	18 1-2	(19 5-16)	20 3-8	18 3-4	19 9-16
December	22 3-16	18 11-16	19 1-4	18 11-16	18 31-32	19 1-2	18 3-8	(18 15-16)	19 3-4	18 5-8	19 3-16
Year	24 3-32	20 5-16	22 3-8	18 1-2	20 5-8	22 3-8	18 3-8	(20 3-8)	22 11-16	18 5-8	20 21-32

[1] Figures for the period from January, 1902, to June, 1905, taken from Kemmerer, Second Annual Report of the Chief of the Division of Currency to the Treasurer of the Philippine Islands, pp. 27, 28; figures for the period subsequent to June, 1905, are based on an extension by the writer of the figures contained in that report.

[2] The British dollar and the new Straits dollar each contain 416 grains of silver .900 fine.

[3] Figures based on the statements of Singapore rates of exchange issued by Fraser and Company, brokers of Singapore. Inasmuch as these statements are issued only on the dates of the outgoing European mails there is a certain overlapping at the beginning and end of each month.

[4] These averages were computed by the writer from telegraphic rates furnished daily by the Manila branch of the Hong Kong and Shanghai Banking Corporation. Figures in parentheses represent mean rates instead of average rates.

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Date	Silver [1]		Hong Kong Sterling Exchange			Singapore Sterling Exchange					
			Telegraphic Transfers			Telegraphic Transfers			Four Months Bank Paper		
	Average price of standard silver in London	Average bullion value of British dollar [2]	High	Low	Average	High [3]	Low [3]	Average [4]	High	Low	Mean
1903	d	d	d	d	d	d	d	d	d	d	d
January	22 1-16	18 19-32	19	18 3-4	18 27-32	19 7-16	18 7-8	(19 5-32)	19 11-16	19 1-8	19 13-32
February	22 3-32	18 19-32	19	18 3-4	18 13-16	19 3-8	19	(19 3-16)	19 5-8	19 1-4	19 7-16
March	22 1-2	18 15-16	19 1-4	18 13-16	19 1-32	20 1-8	19 3-8	(19 3-4)	20 3-8	19 5-8	20
April	23 9-32	19 5-8	20 5-8	19 3-16	19 9-16	20 11-16	19 7-8	(20 9-32)	20 15-16	20 1-8	20 17-32
May	24 29-32	21	20 7-8	19 7-8	20 7-32	20 11-16	20 3-16	(20 7-16)	20 15-16	20 7-16	20 11-16
June	24 13-32	20 9-16	20 3-16	19 7-8	20 1-16	20 7-8	20 1-8	(20 1-2)	21 1-8	20 3-8	20 3-4
July	24 13-16	20 15-16	21	20	20 9-16	22 1-16	20 7-8	(21 15-32)	22 5-16	21 1-8	21 23-32
August	25 9-16	21 17-32	22 1-2	21 1-8	21 25-32	23 3-4	21 13-16	(22 25-32)	24	22 1-16	23 1-32
September	26 3-4	22 17-32	22 3-4	21 15-16	22 5-16	23 3-4	22 7-8	23 5-16	24 1-16	23 3-16	23 5-8
October	27 7-8	23 1-2	22 9-16	22 1-8	22 11-32	23 5-16	22 13-16	23 1-32	23 5-8	23 1-8	23 3-8
November	27 1-32	22 25-32	22 1-16	20 7-8	21 1-2	22 7-8	21 7-16	22 7-32	23 3-16	21 3-4	22 15-32
December	25 3-4	21 23-32	20 7-8	20 3-8	20 19-32	21 15-16	20 15-16	21 9-32	22 1-4	21 1-4	21 3-4
Year	24 3-4	20 7-8	22 3-4	18 3-4	20 15-32	23 3-4	18 7-8	(21 5-16)	24 1-16	19 1-8	21 19-32
1904											
January	26 7-16	22 9-32	22 3-4	20 7-8	21 27-32	22 5-16	21 9-16	22	22 5-8	21 7-8	22 1-4
February	26 9-16	22 13-32	23 1-4	21 3-4	22 17-32	23 9-16	21 15-16	22 29-32	23 7-8	22 1-4	23 1-16
March	26 1-4	22 1-8	22 1-2	21 7-16	22	23 1-4	22 7-16	23	23 9-16	23 1-4	23 13-32
April	24 31-32	21 1-16	21 3-4	20 5-8	21 1-4	22 15-16	21 15-16	22 15-32	23 3-16	22 1-4	22 23-32
May	25 3-8	21 3-8	21 3-4	21 5-16	21 9-16	22 15-16	22 1-2	22 23-32	23 3-16	22 3-4	22 15-16
June	25 19-32	21 19-32	22 1-8	21 9-16	21 25-32	23 7-16	22 3-4	23 1-8	23 11-16	23	23 11-32
July	26 23-32	22 17-32	22 7-16	22	22 3-16	23 7-16	23 1-4	23 11-32	23 11-16	23 5-8	23 21-32
August	26 21-32	22 15-32	22 5-8	21 9-16	21 31-32	23 3-8	23	23 1-4	23 5-8	23 5-16	23 15-32
September	26 11-32	22 7-32	22 3-16	21 5-8	21 7-8	23 1-16	22 11-16	22 7-8	23 3-8	23	23 3-16
October	26 3-4	22 9-16	22 3-16	21 15-16	22 1-16	23 3-16	22 15-16	23 1-32	23 1-2	23 1-4	23 3-8

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Date	Silver [1]		Hong Kong sterling exchange			Singapore sterling exchange					
			Telegraphic transfers			Telegraphic transfers			Four months bank paper		
	Average price of standard silver in London	Average bullion value of British dollar [2]	High	Low	Average	High [3]	Low [3]	Average [4]	High	Low	Mean
1904	*d*	*d*	*d*	*d*	*d*	*d*	*d*	*d*	*d*	*d*	*d*
November	26 15-16	22 23-32	22 13-16	22 1-4	22 7-16	23 1-4	23 3-16	23 7-32	23 9-16	23 1-2	23 17-32
December	27 7-8	23 1-2	23 9-16	22 13-16	23 3-32	23 1-2	23 1-4	23 13-32	23 13-16	23 9-16	23 11-16
Year	26 7-32	22 1-8	23 9-16	20 5-8	22 1-16	23 7-8	21 9-16	22 15-16	23 7-8	21 7-8	22 7-8
1905											
January	27 31-32	23 9-16	24 1-16	23 7-16	23 21-32	23 9-16	23 7-16	23 15-32	23 7-8	23 11-16	23 25-32
February	28 1-16	23 21-32	23 11-16	22 5-8	23 3-16	23 13-16	23 9-16	23 11-16	24 1-16	23 13-16	23 15-16
March	26 7-8	22 21-32	22 5-8	22 1-16	22 7-16	23 3-4	23 9-16	23 5-8	24	23 13-16	23 29-32
April	26 1-16	22	22 7-16	21 13-16	22 3-16	23 9-16	23 7-16	23 15-32	23 13-16	23 11-16	23 3-4
May	26 5-8	22 15-32	22 3-4	22 5-16	22 1-2	23 7-8	23 1-2	23 11-16	24 1-16	23 11-16	23 7-8
June	26 15-16	22 23-32	22 5-8	22 1-4	22 15-32	23 13-16	23 5-8	23 23-32	24 1-16	23 7-8	23 31-32
July	27 5-32	22 7-8	22 3-4	22 7-16	22 19-32	24 1-16	23 13-16	23 7-8	24 5-16	24	24 5-32
August	27 3-4	23 3-8	23 3-8	22 5-8	22 15-16	25 7-16	24 1-16	24 7-8	25 11-16	24 1-4	24 31-32
September	28 17-32	24 1-16	23 7-16	22 15-16	23 9-32	25 5-8	25 3-16	25 11-32	25 7-8	25 7-16	25 21-32
October	28 5-8	24 1-8	23 11-16	23 3-16	23 7-16	25 5-8	25 5-16	25 15-32	25 15-16	25 5-8	25 25-32
November	29 13-32	24 13-16	25 1-8	23 5-8	24 15-32	26 1-16	25 5-8	25 7-8	26 7-16	25 15-16	26 3-16
December	29 31-32	25 5-32	25 1-16	24 1-4	24 17-32	26 5-8	25 15-16	26 3-16	26 15-16	26 1-4	26 19-32
Year	27 27-32	23 7-16	25 1-8	21 13-16	23 1-8	26 5-8	23 7-16	24 7-16	26 15-16	23 11-16	25 5-16
1906											
January	30 1-8	25 13-32	24 13-16	24 1-4	24 17-32	28 3-4 [4]	26 5-8 [4]	27 7-8			

[1] Figures for the period from January, 1902, to June, 1905, taken from Kemmerer, Second Annual Report of the Chief of the Division of Currency to the Treasurer of the Philippine Islands, pp. 27, 28; figures for the period subsequent to June, 1905, are based on an extension of the figures contained in that report.

[2] The British dollar and the new Straits dollar each contain 416 grains of silver .900 fine.

[3] Figures based on the statements of Singapore rates of exchange issued by Fraser and Company, brokers of Singapore. Inasmuch as these statements are issued only on the dates of the outgoing European mails there is a certain overlapping at the beginning and end of each month.

[4] These averages were computed by the writer from telegraphic rates furnished daily by the Manila branch of the Hong Kong and Shanghai Banking Corporation. Figures in parentheses represent mean rates instead of average rates.

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down on a level of $28\frac{1}{8}$, and continued on and about that level during the next five or six months. About that time sovereigns were being imported in considerable quantities by the banks, and the result was a fall in sterling telegraphic transfer rates to $27\frac{15}{16}$. Reports received as this paper is going to press state that in September there was a reaction. The extreme rates for the period from February 1, 1906, to September 20, 1906, are said to have been $28\frac{1}{4}$ and $27\frac{15}{16}$.

Before discussing the reasons which led to the adoption of a two shilling four pence dollar, and the probable effect of its adoption upon the trade of the Straits Settlements, it will be well to consider for a moment the conditions existing in the Straits Settlements during the period while the dollar was being raised.

The depressing influence upon trade of an appreciating unit of value is too familiar to require discussion. Mr. Balfour did not greatly overstate the situation when he declared that a slow appreciation of the standard of value "is probably the most deadening and benumbing influence which can touch the springs of enterprise in a nation."[1] The history of Europe during the dark ages and the history of Europe and America during the period 1873–1897 are stock examples of this influence. The appreciation of the Straits dollar differs in many respects from the ordinary example of an appreciating currency. The appreciating unit in this case circulated in a country very limited in area, whose trade was preëminently foreign rather than domestic. The rate of appreciation was very rapid and, unlike those cases of appreciation resulting from a rise in the value of the material from which the money unit is coined, was clearly perceptible to the public.[2]

It is an undisputed fact that the period of appreciation—the

[1] Quoted by Francis A. Walker, "The Relation of Changes in the Volume of the Currency to Prosperity," in Discussions in Economics and Statistics, vol. ii, p. 235.

[2] The appreciation of the rupee in India is hardly a parallel case. The gold par to be adopted was known in advance, while the amount of the appreciation, above the minimum gold value possessed by the rupee prior to the announcement of the currency committee's scheme in 1893, was very small. *Cf.* Robertson, "The Currency Policy of India," in *Journal of the Society of Arts*, March 27, 1903.

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period from the summer of 1904 to January 29, 1906, when the sterling par of the dollar was declared—was one of speculative activity, and that in the latter part of this period, that is from about August, 1905, the speculation was so widespread and so intense as to interfere seriously with nearly all legitimate business enterprise.

In order to make clear the character of the speculation indulged in, a word of explanation concerning the banking business in the Straits Settlements is desirable. The banking business in the Straits Settlements, as well as in the Philippines, and in Hong Kong, Shanghai and most of the other port cities of the Orient, is largely confined to foreign exchange operations. By contracting in advance for the purchase or sale of exchange at a definite rate, merchants are accustomed to insure themselves against losses from fluctuations in silver during the interim between purchase and sale of merchandise, while the banks in turn protect themselves by covering their forward purchases of local bills by contracts for the forward sales of bank paper and telegraphic transfers, and *vice versa*. An exporter, for example, knowing in January that in the course of a few months he will have a cargo of produce to ship to the London market, goes to his banker and makes a contract to deliver sometime in the course of the next three, four or six months, as the case may be, sterling bills covering the value of his anticipated shipment, at a rate of exchange agreed upon. In the Straits Settlements the exporter usually has an option of at least two months, *i. e.*, a right to deliver his bills at any time within two months, and frequently an option of five or six months is given. After the fixing of his exchange the exporter often obtains advances from the bank, usually in the form of an overdraft, secured by the pledge of the produce to be exported. In the same manner importers make contracts months in advance, fixing rates of exchange for the purchase of bank paper or telegraphic transfers with which to make remittances for anticipated importations.

In the first instalment of this article it was pointed out that although the sterling rate at which the Straits dollar would be fixed was not declared in advance, as had been done in India in the case of the rupee, it was generally believed that a rate of two

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shillings would be adopted. This appears to have continued to be the popular belief as late at least as the latter part of the year 1904, when the sudden advance in the price of silver made it evident to thinking people that a two shilling dollar containing 416 grains of silver .900 fine would be in great danger of the melting pot. Here then was a situation which appeared to the merchant who was inclined to speculate as "a sure thing." The value of the dollar, he reasoned, was bound to rise, and its gold par was certain to be fixed in the probably not distant future at a sterling value materially higher than the one it then had, and at least several per cent higher than its bullion value, whatever might be the price of silver. A merchant contracting in August for the delivery of sterling bills in November or December would have the benefit of whatever appreciation might take place in the dollar in the interim, and, in case his bills should not be ready for delivery at that time, he could presumably cover at a profit by the purchase of bank paper or telegraphic transfers.

As a result of this situation all classes of people began to speculate for a rise in exchange. Sterling bills[1] were offered to the banks in large quantities in the summer of 1905 for forward delivery. Every merchant who had the remotest prospect of having any bills against possible exports during the next six months or so rushed into the market to fix his exchange. Many sales are said to have been made simply on a margin without reference to anticipated exportations. Little attempt was made to cover.[2] Sterling rates naturally rose rapidly as a result of this demand for dollars, and it soon developed that a certain foreign bank was underbidding all the other banks by about one-sixteenth of a penny, and was in consequence doing the lion's share of the business. This bank, with a branch in Singapore and a sub-branch at Penang, seemed to have under its control a large part of the available supply of dollars. Soon, however, there began to be misgivings as to whether exchange

[1] There was also considerable speculation on the Indian exchanges, particularly by Indian merchants and the so-called "chitties" or Indian money lenders.

[2] The word "cover" here has the usual significance of offsetting sales by purchases and *vice versa*.

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had not gone unreasonably high; all sorts of rumors were afloat; and it was not long before there was a sudden break in the rates, everybody wanted cover, there was a clamor for bank paper and local bills, and down exchange came as rapidly as it had previously advanced. Here likewise the one bank that had done the bulk of the business when exchange was rising overbid its competitors when exchange was falling, and continued largely to control the market. There were at least seven such cycles of exchange fluctuations of greater or less duration between August 1, 1905, and February 1, 1906. Throughout the month of January, 1906, the money market was in a condition of panic, and toward the latter part of the month, about the time of the Chinese New Year, the panic was feverish and intense. There was at this time the usual heavy demand for money to meet the Chinese New Year's liquidations,[1] in addition to the demand to meet the many exchange contracts which were then coming due. The bank which during the previous six months had largely controlled the exchange market, which had, to some extent, dictated terms to the other banks, and upon which speculators had generally relied, found temporary difficulty itself in making collections and in meeting its obligations, and was forced to beg assistance from the other banks in order to take up its contracts. The assistance was finally given but only on onerous terms. A number of the strongest local houses were threatened with bankruptcy, and it was evident that a supply of dollars must be forthcoming from somewhere or there would be a general collapse.

Exchange rates fluctuated so rapidly during this period (there were sometimes five or six quotations a day), such varying rates were quoted by the different banks, and business was done so extensively on rates different from those publicly quoted, that it is impossible to give any adequate idea of exchange fluctuations for the month. The following figures, however, will give a suggestion of the frenzied state of the market. On January 3 sterling telegraphic transfers were quoted in Singapore at 2*s*. $2\frac{3}{4}d$., on January 5 at 2*s*. $3\frac{7}{16}d$., a difference of over two and a

[1] All debts to Chinamen are supposed to be settled by the time of Chinese New Year.

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half per cent; on January 10 the rates cabled to Manila by one bank varied from 2*s*. $3\frac{9}{16}d$. to 2*s*. $4\frac{1}{16}d$., a difference of 1.8 per cent during the day; on January 15 the rate opened at 2*s*. $4\frac{7}{16}d$. and closed at 2*s*. $3\frac{15}{16}d$., a difference of 1.7 per cent; on January 18 the rates cabled to Manila by one bank varied from 2*s*. $2\frac{15}{16}d$. to 2*s*. 4*d*., a variation of nearly four per cent during the day. These examples I believe are typical. If they give a wrong impression it is in understating the case rather than in exaggerating it. The manager of one of the leading Singapore banks informed the writer that daily exchange fluctuations in Singapore during January sometimes varied by over five per cent. In individual cases, of course, business was transacted on all sorts of extravagant rates.

The excitement became so intense that the government was finally forced to take action sooner than it had intended. In the latter part of January, when the governor returned to Singapore from a trip to Labuan, he made a statement before the council, the purport of which is said to have been as follows:

He had been surprised to learn that, during his absence from the colony, there had been a sharp rise in exchange, and his opinion was that this was very largely due to speculation upon the intention of the government with regard to the rate which would ultimately be fixed for exchange between silver and gold. This was a matter which no one was entitled to speculate upon; it was one which the government was certainly not in a position at present to make a statement about. As everyone was aware, the course of the silver market had been so peculiar that it was impossible for the government at present to say for certain what the market would be six months hence. Six months ago it was 26*d*. Today it was over 30*d*. Would anybody have the boldness to say that six months hence it would not be 26*d*. again, or that it might not be 34*d*.? Under these circumstances, it appeared to him that those persons who were speculating on the intentions of the government were indulging in a very dangerous operation, in which they might very likely burn their fingers. He could only say that it was the intention of the government—and he thought this was the opinion of everybody interested in the trade of the place—to fix the dollar at as low a value as possible consistent with security. That was all he was in a position to say on the matter. Whether the point would be higher

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or lower than the existing rates, he could not at present state; the facts were not before him on which to form an opinion; but he could say that it was the intention and desire of the government that the dollar should be fixed at as low a value as possible consistent with safety.[1]

In the latter part of January authority was sought of the home government to fix exchange immediately. There was some delay, however, in obtaining this authority, and when it was finally received, about January 26, the state of the exchange market was such that it was considered inexpedient to declare the rate at once. On Saturday, January 27, the government sought to steady the market[2] by asking for bids for the cable transfer to London of £100,000. None of the bids received were accepted, but the request is said to have had the desired effect.

On January 29, 1906, the governor in council issued an ordinance[3] declaring that

it shall be lawful for the commissioners to issue notes in exchange for gold received by the commissioners at Singapore at a rate of exchange to be notified by an order of the governor in council with the previous approval of the secretary of state and the commissioners may invite tenders for the issue of notes in Singapore against telegraphic transfers in favor of the crown agents for the colonies in London and may at their discretion accept any tender which affords sufficient margin above the rate fixed by such order in council to cover all charges including interest which may be incurred in remitting to Singapore the equivalent in gold at the fixed rates of the notes issued for such tender. . . .

The sum so received in gold shall form part of the note guarantee fund and may be invested by the commissioners in accordance with the provisions of this ordinance or used by them for the purchase of silver to be minted into Straits Settlements dollars. . . . Provided that the

[1] Statement furnished the writer by a local manager of one of the large Eastern exchange banks.

[2] This procedure led to considerable unjust criticism of the government on the ground that, knowing in advance what the fixed rate would be, it was endeavoring to beat the market by taking advantage of the higher market rate then prevailing before declaring its fixed rate. No criticism could have been farther from the truth.

[3] Ordinance no. 1 of 1906, entitled, "An Ordinance further to amend 'The Currency Note Ordinance 1899.'"

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whole of the profit on such minting shall be carried to a separate gold reserve fund and not form part of the note guarantee fund.

Pursuant to the above ordinance the governor in council issued an order[1] on the same day, declaring "that from and after the date of this order the currency commissioners may issue notes in exchange for gold received by them at Singapore at the rate of sixty dollars for seven pounds sterling." Two shillings and four pence, the public were accordingly given to understand, would be the permanent sterling par of the dollar, unless future advances in the price of silver should make the raising of the dollar to a higher par seem desirable. The governor refused to commit himself as to the absolute permanency of the two shilling four pence par.

With the issuance of the above order the money panic stopped, for it was thenceforth possible to obtain from the government dollars in unlimited quantities by the presentation of sovereigns in London. When the horizon cleared it was found that several of the principal banks, and one in particular, had large supplies of dollars in their vaults.

Between July, 1905, and February, 1906, the gold value of about fifty million dollars (inclusive of government notes and of subsidiary and minor coins) had been raised from approximately two shillings to the dollar to two shillings and four pence, an appreciation of over sixteen per cent, representing an increment to the gold value of the country's currency during that time of over eight hundred thousand pounds sterling. This advance is in a small degree to be accounted for by the rise in the price of silver; and the increased value of the notes was dependent slightly on the fact that the government transferred several hundred thousand dollars from the general treasury funds to the note guarantee fund to help make good the decline in the dollar value of the sterling securities held in that fund. The government had at that time established no gold reserve fund, however, and the above advance is to be explained mostly on the ground of a relative reduction of the currency supply. This

[1] *Government Gazette Extraordinary*, vol. xli, no. 5 (January 29, 1906), p. 290.

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difference between the bullion value of the new dollars (at which, approximately, they originally circulated) and their money value—a difference which under other methods of currency reform would have accrued to the public treasury as seigniorage profit and would have furnished a substantial part of a gold reserve fund—found its way largely into the pockets of a few speculators. I say "a few" because here, as in most cases of the sort, the great majority who dabbled in the speculation are said to have lost. A large part of the profits went into the vaults of the foreign bank mentioned above (p. 672), whose local manager had carefully planned the exploitation of the currency scheme as early as the fall of 1903. This local manager apparently had for the accomplishment of his purpose a large part of his bank's assets, and he played a very shrewd and successful game, albeit one which would hardly come in the range of ordinary conservative banking.[1]

The government's action in offering to give dollars for sovereigns, it will be noted, did not necessarily fix the value of the dollar, but simply marked an upper limit to its possible appreciation in terms of gold. Advices received from Singapore under date of September 12, 1906, state that sovereigns to the amount of about £1,000,000 have been presented to the currency commissioners in Singapore in exchange for notes. No action has yet been taken providing for the giving of sovereigns for dollars,[2] although such action is contemplated as soon as a sufficient supply of gold is accumulated.

[1] The manager of this bank said to the writer that his plan of operations involved practically no risk. He knew, he said, that the dollar would not be fixed at a lower rate than two shillings, and, when silver rose, that it would be fixed at a considerably higher rate, for the government would certainly not fix the dollar at a lower value than five or six per cent above bullion point. These facts he appreciated very early, and he was the first to follow them to their logical conclusion. At first for a short time he overbought, anticipating a fall in the price of silver. He began to oversell as early as the fore part of 1904, and early in the spring of that year his over sales amounted to a very large figure. He kept his heavy figures on this side of the ledger until he gained a virtual control of the market in the summer of 1905, and this control he practically maintained until January, 1906.

[2] With reference to the subject of the redemption of notes in gold the governor is reported to have said: "If the government were to hold out to the public the immediate prospect of giving gold for notes, and some one came along with notes and de-

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The provision of the ordinance of January 29, 1906, authorizing the "issue of notes in Singapore against telegraphic transfers in favor of the crown agents for the colonies in London," is meant to be of a temporary and emergency character. Under ordinary conditions the only method of obtaining dollars of the government will be, it is said, through the presentation of the actual sovereigns in Singapore. The government has no intention (so the governor informed the writer in February) of adopting the principle of the gold-exchange standard which has recently been adopted in the Philippines[1] and in Mexico.[2] Neither the home authorities nor the officials in Singapore are said to be in favor of that plan.

The objections urged to the adoption of the gold-exchange standard are: (1) That it would unduly interfere with the business of the banks. (2) That it would encourage banks to work on dangerously low cash balances, knowing as they would that they could obtain dollars of the government on a moment's no tice by the purchase of cable transfers on Singapore from the crown agents for the colonies in London. (3) That there would be danger of the government's notes depreciating unless they were redeemable in gold in the country itself. (4) That the monetary circulation of the Straits Settlements was too small to make the plan feasible there. (5) That the plan would require a larger reserve fund than would otherwise be necessary, because the government would be compelled to keep a reserve both in London and in Singapore; and that in each place the reserve would have to be large, because drafts on the fund through the

manded gold and government was unable to pay, people would say: 'Here you are holding out that you are prepared to give gold for notes, and the first time you are asked to do so you fail to do it.' They [*i. e.*, government] must first of all get something of a gold reserve before they could hold out any prospect of being able to give gold in exchange for notes, and that time had certainly not yet arrived. As soon as they had a gold reserve they would be prepared to consider the public as far as possible and give gold for notes when required." *Singapore Free Press*, January 30, 1906.

[1] *Cf.* Kemmerer, "The Establishment of the Gold Exchange Standard in the Philippines," *Quarterly Journal of Economics*, vol. xix, pp. 588–591.

[2] Ley que establece el régimen monetario de los Estados Unidos Mexicanos, in Leyes y disposiones relativas a la reforma monetaria (Mexico, 1905), pp. 52, 53.

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sale of telegraphic transfers would not give the government any such warning in advance of the demands liable to be made as would enable it to replenish the reserve.

The above arguments, all of which were urged upon the writer either by officials or business men in the Straits Settlements, do not appear to be conclusive for the following reasons, which may conveniently be stated in the same order as the objections. (1) If the rates for the sale of government drafts were fixed at the "gold points," as they presumably would be under the gold-exchange standard, and if only drafts of large amounts were to be sold by the government, redemption by the sale of drafts would not interfere appreciably more with the business of the banks than would redemption in coin. Under these circumstances the banks themselves would be the principal purchasers of government drafts, and such drafts would be purchased and forwarded merely in lieu of the shipment of sovereigns. (2) The sale of telegraphic transfers, while desirable in the interest of currency elasticity, is by no means a necessary feature of the gold-exchange standard. If the government were opposed to making a minimum legal reserve requirement of banks, it could limit its sales of drafts to demand drafts or even, if need be, to short time drafts. (3) If government notes were redeemable in silver dollars on demand, and if the silver dollars were redeemable in gold exchange on demand, depreciation would be impossible in a country where the people have the confidence in the government which they have in the Straits Settlements. (4) The system of the gold-exchange standard is better suited to a country with a small circulation than to one with a large circulation. It is evidently easier to maintain a small reserve abroad than a large one. (5) It is not probable that the Straits Settlements would require so large a reserve under the gold-exchange standard as it will under the system to be adopted. Under either system it would need a sovereign reserve and a dollar reserve. Under the system to be adopted both reserves will be located in Singapore; under the gold-exchange standard the dollar reserve would be located in Singapore and the sovereign reserve in London. The sale of cable transfers is not a necessary part of the system, as above pointed

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out; and, even if it were, the movement of market rates of exchange would ordinarily give ample warning of a demand for dollar drafts or sovereign drafts. Emergency cases, if such should arise, could be met through the temporary transfer of funds to the gold reserve from the security portion of the note guarantee fund, or through the transfer of dollars to the credit of the home government in Singapore in exchange for an equivalent amount of sovereigns placed to the credit of the Straits government in London.[1] A prolonged and severe drain upon the reserve fund, which in a country like the Straits Settlements would be an extremely improbable contingency if the government withdrew from circulation dollars presented in the purchase of government drafts, could of course always be met by the forward sale on the London silver market of the redundant dollars piling up in the government's dollar reserve in Singapore. The gold-exchange standard would probably enable the country to get along with a smaller gold reserve than will the system to be adopted, inasmuch as it would keep gold coins out of circulation and the demands upon it would be limited to the requirements of meeting foreign trade balances—the only monetary use to which the dollars could not be applied. The Straits Settlements, inasmuch as it is a country for whose trade requirements silver coins are better adapted than gold, and a country which is anxious to maintain its reserve at as small an expense as possible, would in fact seem to be a place peculiarly adapted to the gold-exchange standard. The premiums which the government would realize on its sale of exchange, together with the interest it would obtain on that part of its reserve deposited abroad, would doubtless yield sufficient profit, as in the Philippines, to pay the expenses of administering the currency system and to provide in addition a substantial annual increment to the gold reserve.

Now that the events leading to the declaration of the two shilling and four pence par have been described and the plan so far adopted has been discussed, it will be well to inquire

[1] This is a procedure extensively followed, for example, in the Philippine Islands. *Cf.* Kemmerer, Second Annual Report of the Chief of the Division of the Currency, p. 10.

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concerning the effect which the establishment of this new unit of value is liable to have on the trade of the Straits Settlements and upon the relations existing between debtors and creditors and their respective equities.

First let us consider the purely domestic trade. It is a principle of monetary science that a sudden alteration in the size of the unit of value does not result in an immediate and proportionate alteration in prices. Custom, which is to the world of people what inertia is to the world of things, tends under such circumstances to conserve existing prices. Time is always required for a readjustment of the price level, and the transition from one price level to another often carries with it permanent results of far-reaching consequence. Domestic prices in silver-standard countries respond very slowly to fluctuations in the market price of silver. A Mexican dollar had nearly the same purchasing power in the domestic trade of the Philippine Islands in February, 1903, when it had a gold value of 37 cents United States currency, that it had in October, 1901, when it was worth 50 cents. "Later, when the bulk of the money in circulation came to be the new money, prices seem to have been quite generally transferred from the old currency to the new without any material alteration."[1] When the American troops first introduced the United States dollar into the Philippines, the natives demanded as many American dollars for their produce and wages as they were accustomed to receive Mexican dollars, and in many cases obtained their demands. In time, of course, there was a readjustment. In Porto Rico, after the American occupation, the currency of the country, consisting of about 6,000,000 *pesos* of Spanish money, was retired from circulation by redemption in United States currency at the rate of one and two-thirds *pesos* to one dollar of United States currency. The result was a marked rise in prices as measured in gold values.[2]

[1] Kemmerer, "The Establishment of the Gold Exchange Standard in the Philippines," *Quarterly Journal of Economics*, vol. xix, p. 607.

[2] "The immediate effect of our advertised intention to retire the old currency was a very general raising of prices and a demand for the raising of wages among the smaller merchants, retailers, and workingmen. This lasted but a short time, how-

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The Straits Settlements have not escaped the application of this law. Prices and wages have not fallen in proportion as the sterling value of the dollar has risen. When the writer was in Singapore, February last, the complaint was heard on every side that the new two shilling four pence dollar would buy no more in the Straits Settlements than did the old dollar a few years before, when it was worth a little over a shilling and six pence. If this is true it means a rise of prices, as measured in gold, of something like 50 per cent within three years. The evidence seems to be that there is considerable truth in the assertion, although it should be said that other forces besides those directly connected with the currency have been pushing prices upward. Wage earners for the most part were receiving last February about the same number of the new dollars that they had formerly received of the old. The same was true of the salaried class in so far as their salaries were fixed in dollars. Many Europeans, however, a few years before had complained bitterly of the losses they were incurring by reason of the depreciation of the dollar, and had in consequence succeeded in having their salaries transferred to a sterling basis. The raising of the dollar therefore led to a proportionate reduction in the salaries of this class as measured in dollars. Wholesale prices, especially of goods imported from gold-standard countries, were showing a strong tendency to decline, and several of the better classes of retail stores were making price reductions on most lines of goods of from five to ten per cent. The great bulk of miscellaneous expenses, such as professional fees, hotel rates, livery rates, laundry charges and the like, were as yet unaffected by the appreciation of the dollar. In general it may be said that the readjustment of prices was taking place very unevenly; that

ever, and the prices of staple commodities, as well as the price of labor, have since worked back toward the old basis, steadily but surely. Today [August 2, 1901] we believe that a conservative opinion would say that the change in the currency is perhaps responsible for a rise in the cost of living of from ten to fifteen per cent. In some parts of the island it is much higher, owing to combinations of capitalists, but these will undoubtedly be dissolved in time." Letter of De Ford and Co., bankers, San Juan, Porto Rico, August 2, 1901, to Mr. Charles A. Conant, special commissioner of the war department on coinage and banking in the Philippines, in Conant, Special Report on Coinage and Banking in the Philippines, p. 119.

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in no case was the decline proportionate to the rise in the sterling value of the dollar; that it was most rapid in those lines where competition was keen, as in the case of wholesale prices, and least so where competition was weak and custom dominant, as in the case of wages. It will be observed that such an uneven alteration of prices must have important consequences in the distribution of wealth among the different classes in the community.

Next let us consider the effect of the raising of the dollar upon the country's foreign trade. This trade may be divided into two parts: (1) the transit trade; (2) the export trade in local produce and the import trade in foreign merchandise for domestic consumption.

The Straits Settlements, commercially speaking, are first of all an entrepôt of foreign trade. Singapore is a great distributing center between the East and the West. Aside from the obvious advantages the fixing of a gold par of exchange will have for trade with gold-standard countries, and the equally obvious disadvantages it will have for the trade with silver-standard countries, what will be the effect of the raising of the unit of value on this transit trade?

The actual size of a country's monetary unit, so long as it is stable in value, is a matter of little importance to its foreign trade. Any alteration, however, in the unit of value is liable to have temporarily a detrimental effect on foreign trade. A period of currency reform is always characterized by a lack of confidence and by unsettled business conditions. Merchants know too well the important and subtle influences exercised upon trade profits by slight alterations in a currency system, to be anxious to turn their merchandise even temporarily into the money of a country undergoing such a reform. An unfamiliar currency system, no matter how good it may be, is an obstacle to foreign trade. When to these facts you add that in this particular case the monetary unit was to be raised artificially after an uncertain interval of time to an unannounced gold par, and ultimately to be maintained at this par by a gold reserve which it might take years to accumulate in sufficient quantity to become effective, it may well be imagined that foreign traders

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were inclined to be diffident. The writer found that merchants in the Straits Settlements were complaining that the raising of the dollar was driving away the transit trade. There seems to be no question that the complaint was justified. It is to be observed, however, that the raising of the dollar is only one of several causes contributing to this result. For some time there has been observed a tendency on the part of Oriental countries to deal more and more directly with Europe instead of through ports of entrepôt. The "high freights fixed by the Straits Homeward Conference to Europe and extended to New York in August [1905] have contributed in a marked degree to the natural tendency for small ports to expand and establish direct steam communication with home markets."[1] The fact that the raising of the dollar is a force coöperating with a natural decline in the Straits transit trade would seem to diminish the hope that the trade driven away will return as soon as the gold standard shall be satisfactorily established and prices and wages shall become adjusted to the new unit.[2]

It is a generally accepted principle that a falling exchange has a tendency to favor export trade at the expense of import trade, and a rising exchange to favor import trade at the expense of export trade. Prices and wages, as previously observed, respond slowly to alterations in the value of the monetary unit as measured by the foreign exchanges. As a result, in a country like the Straits Settlements, an importer of merchandise from gold-standard countries receives practically the same num-

[1] *Cf. The* [London] *Times, Financial and Commercial Supplement*, January 22, 1906, p. 41.

[2] The following quotation from the *Singapore Free Press* of February 8, 1906, concerning the trade with Siam is apposite: "One of the most interesting features of the Bangkok trade last year was the marked development of a tendency to send orders direct to Europe instead of to the Singapore middleman. In the past, the Chinese importer, a very important factor in the year's total, dealt invariably with Singapore or in a small measure with Hong Kong houses. Today, says the *Bangkok Times*, 'the saving of the middleman's profit has become a matter of some importance, and notwithstanding Singapore's advantage in being near at hand the proportion of direct orders in the total has been growing for some time. This tendency has now been accentuated by the exchange difficulty, and it is doubtful if any improvement is to be looked for there.'"

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ber of dollars for his merchandise and pays for it practically the same gold prices for a short time after a rise or fall in exchange as before. If exchange goes up he will therefore tend to profit by the higher gold value of the local dollar, and if it goes down he will, *per contra*, tend to lose. The exporter in like manner will continue for a time after an alteration in exchange to pay essentially the same wages and the same prices for the produce he exports as before, and will obtain the same gold prices for what he exports. He will accordingly temporarily tend to profit to the extent of a fall in exchange and to lose to the extent of a rise. These gains and losses are of a temporary character and sooner or later a readjustment takes place. In the long run the prosperity of the export trade and of the import trade are inseparably linked together, because it is the one that pays for the other. The extent of these temporary profits or losses, as the case may be, the length of time during which they will be realized and the persons to whom they will accrue depend upon the comparative strength of the markets and of the different parties to the transaction. Take, for example, the case of a rising exchange. Where competition among the importers of a given commodity is keen, or where the price in the importing country is for any other reason weak, local prices will soon fall on a rising exchange and the consumer will be the benefited party. Where competition among importers is weak in the importing country, or the price of the commodity is for any other reason strong, the importer[1] will reap the benefit of a rising exchange. Where the sellers of the article in the exporting country are in a position to control the price, either by combination or otherwise, they may be able to reap the profit by advancing their prices as exchange rises. The same principle applies to the export trade on a rising exchange. If competition among producers is weak and the demand for the commodity in question is strong, the burden of the advance in exchange may be shifted to the buyer or to the foreign consumer. Where the supply of labor employed in the production of the commodity

[1] In such cases, of course, the profit may be realized in part by the importer, in part by the wholesaler, and in part by the retailer.

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is excessive and the wage-earners are not organized, the burden may be shifted to the laborer. Where, on the other hand, the foreign market is weak and the labor supply limited or thoroughly organized, the burden may be shifted to the producer or to the exporting merchant.

Let us apply these principles to the trade of the Malay peninsula during the period of the appreciation of the dollar. It may be said that the rise of the dollar did not, as many anticipated, prove detrimental to the tin trade. Tin is the principal item of export from the Malay peninsula. The Federated Malay States are said to contribute about seventy per cent of the world's supply of tin. The production of that staple is constant and the market is strong; as a result the tin merchant has been able to shift the burden of the rise in exchange to the foreign consumer. The same has been true to a lesser extent of tapioca.[1] On the other hand, pepper and gambier, two import-

PRICES OF CERTAIN STAPLE EXPORTS[2]

TIN

1905	PURCHASED	PRICE PER PICUL		LONDON PRICE PER TON					
MONTH	TONS	HIGH	LOW	HIGH			LOW		
		$	$	£	s	d	£	s	d
January	3539	79.50	77.25	132	10		130	2	6
February	1510	77.25	76.50	131			129	12	6
March	2120	80.375	76.625	134	15		129	10	
April	3275	81.625	79.50	136	5		134		
May	2565	80.375	79.00	136	2	6	132	15	
June	2770	81.75	79.625	138	17	6	135	2	6
July	2640	88.00	81.25	150			139	2	6
August	1635	86.875	82.875	151	10		147	5	
September	1620	83.50	80.125	148			144	12	6
October	2725	82.00	80.00	148	2	6	146	5	
November	2775	84.00	80.875	155	15		148	5	
December	3320	88.75	83.75	164	10		157		

[1] It is impossible to say what the course of tin and tapioca prices would have been in London, had the value of the Straits Settlements dollar not been raised, and to what extent the producers of these articles might not have realized additional profits under such a contingency. It may well have been that the rise in exchange merely hastened an upward movement of prices which would in time have taken place any way. It should be noted in this connection that exporters of such articles realized in some cases additional profits by speculating in their sterling bills.

[2] Based upon the Yearly Statement of the Singapore Chamber of Commerce, 1905.

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BLACK PEPPER

1905	PURCHASED	PRICE PER PICUL		LONDON PRICE PER POUND	
MONTH	TONS	HIGH	LOW	HIGH	LOW
		$	$	d	d
January	1117	29.25	25.75	5 7-8	5 5-8
February	935	26.55	25.00	5 5-8	5 1-2
March	888	26.50	25.25	5 5-8	5 1-2
April	1357	26.375	25.70	5 3-4	5 5-8
May	1615	26.25	25.50	5 3-4	5 3-4
June	1435	28.625	25.75	5 3-4	5 3-4
July	660	29.00	27.30	5 3-4	5 3-4
August	938	29.00	28.00	6	5 13-16
September	631	28.25	25.50	6	5 15-16
October	731	26.375	24.75	5 15-16	5 7-8
November	499	24.75	23.50	5 15-16	5 13-16
December	1542	24.00	20.75	5 13-16	5 5-8

GAMBIER (NOT INCLUDING CUBE)

1905	PURCHASED	PRICE PER PICUL		LONDON PRICE PER HUNDREDWEIGHT	
MONTH	TONS	HIGH	LOW	HIGH	LOW
		$	$	s d	s d
January	2557	9.30	8.75	20	19 6
February	882	9.125	8.75	20	19 6
March	2609	9.00	8.75	19 9	19 3
April	1704	9.00	8.60	19 3	19
May	3530	8.85	8.575	19	18 9
June	1959	8.75	8.60	18 9	18 9
July	2189	9.00	8.65	18 9	18 9
August	2312	9.00	8.50	19 9	19 6
September	2420	8.75	8.575	19 9	19 9
October	3262	8.45	7.875	19 9	19 9
November	3205	8.10	7.875	20 3	19 9
December	3973	8.00	7.70	20	20

ant items in the Straits Settlements' export trade, had weak markets during the period of the appreciation of the dollar; and this fact, accompanied by a strong competition among the producers of these articles, has resulted in declining dollar prices and the imposing of the burden of the rise in exchange upon the exporter and the producer. The above tables, which give the prices of certain articles of Singapore trade month by month in 1905, will support these conclusions.

The supply of labor is so scarce in the Malay peninsula that the appreciation of the dollar has not yet resulted in any appre-

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ciable reduction in wages among the laborers engaged in the production of articles for export.

The import trade of the Malay peninsula, aside from the transit trade, is made up of such a variety of commodities and is in the hands of so many traders, that it is impossible at this date to form any very definite opinion as to the effect upon it of the rise in exchange. As in the case of the export trade, different articles have been affected differently, according to the conditions of their respective markets and the relative strength of the various parties in the trade. It may be safely said that the import trade received nothing like the stimulus that would naturally have been expected from such a decided rise in exchange, and this for at least two reasons: (1) the unsettled condition of all kinds of business while the currency reform was in progress and, in particular, the unwillingness of merchants to replete their stocks; and (2) the neglect of normal legitimate business on the part of business men for the purpose of engaging in exchange speculation.

The business of the Straits Settlements during the year can hardly be said to have been slack; it was, on the contrary, at least during the eight months ending January 31, 1906, active and exciting, and the volume of transactions was large; but this activity was principally confined to transactions either purely or largely of a speculative character, and if such transactions are eliminated, it may be safely said that business in the Straits during the period of appreciation was bad. This I found to be the general opinion among merchants of the colony. The Singapore correspondent of the London *Times* summed up the situation in his letter of December 1, 1905, by saying: "Not for fifteen years has this colony experienced such bad times, and even now signs of a revival are by no means hopeful."[1]

There is perhaps no consideration of more vital importance in any currency reform than that of its effect upon existing debts. A debtor borrows purchasing power in the form of money and, in an ideal system, he would pay back the same

[1] *The* [London] *Times, Financial and Commercial Supplement*, January 22, 1906, p. 41.

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purchasing power with interest, except to the extent that prices may have been modified in the interim by factors affecting the production of commodities, such as improved methods, exhaustion of natural supplies and the like, in which cases the amounts repaid should be so altered that the gains or losses thus arising should be equitably shared between debtor and creditor. While such an ideal system is of course unattainable in practice, currency systems should be so framed as to approach the ideal as nearly as practicable. A rapidly depreciating currency works a grave injustice to the creditor class; a rapidly appreciating currency works an even more serious injustice to the debtor class. The bimetallic controversy which has stirred up three continents for upwards of a quarter of a century found its *raison d' être* very largely in the injustice to the debtor class resulting from a monetary régime in which the unit of value appreciated by something like 44-per cent[1] in the twenty-five years, 1873–1897.

In the light of these familiar principles let us look at the recent experience of the Straits Settlements. The following figures will show in a general way the appreciation of the dollar as compared with gold during the past four years:[2]

THE APPRECIATION OF THE DOLLAR IN ITS RELATION TO CERTAIN STERLING RATES

	STERLING TELEGRAPHIC TRANSFERS			
	HIGH	LOW	MEAN	AVERAGE
	d.	*d.*	*d.*	
1902	22 3-8	18 3-8	20 3-8	.....
1903	23 3-4	18 7-8	21 5-16	.....
1904	23 7-8	21 9-16	.....	22 15-16
1905				
Jan.-June	23 7-8	23 7-16	.....	23 5-8
July-Dec.	26 5-8	23 13-16	.....	25 9-32

[1] The index number of the Sauerbeck tables for 1873 is 111, and for 1897 is 62.

[2] The average annual sterling rates of exchange in Singapore for four-months bank paper for the period 1890 to 1901, as given in the annual reports of the governor of the Straits Settlements, were as follows:

1890.....3*s.* 5 1–4 *d.*	1894.....2*s.* 2 *d.*	1898.....1*s.* 11 1–4 *d.*
1891.....3*s.* 3 *d.*	1895.....2*s.* 1 1–2 *d.*	1899.....1*s.* 11 15–16*d.*
1892.....2*s.* 10 5–8 *d.*	1896.....2*s.* 2 3–16*d.*	1900.....2*s.* 10 9–16*d.*
1893.....2*s.* 7 7–16*d.*	1897.....1*s.* 11 15–16*d.*	1901.....1*s.* 11 1–16*d.*

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THE APPRECIATION OF THE DOLLAR IN ITS RELATION TO CERTAIN STERLING RATES

	PERCENTAGE INCREASE OF TWO SHILLING DOLLAR OVER				PERCENTAGE INCREASE OF TWO SHILLING FOUR PENCE DOLLAR OVER			
	HIGH	LOW	MEAN	AVERAGE	HIGH	LOW	MEAN	AVERAGE
1902	7.3	30.6	17.8	.....	25.1	52.4	37.4	.....
1903	1.1	27.2	12.6	.....	17.9	48.3	31.4	.....
1904	0.5	11.3	.....	4.6	17.3	29.8	.....	22.0
1905								
Jan.–June	0.5	2.4	.....	1.6	17.3	19.4	.....	18.5
July–Dec.	—9.9[1]	0.8	.....	—5.1[1]	5.2	17.9	.....	10.8

A glance at the above table will show that debtors having time obligations in the old currency contracted between the years 1902 and 1906 will suffer serious injustice in being compelled to settle those obligations at par in the new dollar. Those persons who contracted debts when the sterling value of the dollar was lowest and invested the funds borrowed in gold standard countries will be the heaviest sufferers. Those who contracted obligations when the sterling value of the dollar was highest and invested the proceeds locally, and who settle their indebtedness before prices and wages become adjusted to the new unit of value, will suffer least. Between these extremes the injustice suffered will be of varying degrees. There will probably be few instances of time obligations in the Malay peninsula in which the debtor will not to some extent be deprived of his property unjustly by reason of this artificial increase in the country's unit of value.[2]

But, it may be asked, did not the government take the usual measures[3] to provide for the equitable adjustment of such time obligations? To this question it must be answered that not only

[1] Decrease.

[2] In considering the extent of the appreciation of the dollar during the last four years and the injustice thereby done to the debtor class, allowance should be made for two factors which to a small degree alleviate the situation of that class: (1) Those years have been characterized by a slight depreciation of gold in the world's markets, as evidenced by standard tables of price index numbers. (2) Eliminating fluctuations in prices arising from alterations in the unit of value *per se*, the general tendency of prices has undoubtedly been upward in the Malay peninsula during this period.

[3] Such measures have been taken in recent years in Samoa, Porto Rico and the

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was no such action taken, but there is no evidence that it was ever considered by the Straits Settlements currency committee which recommended the plan adopted, by the governor and legislative councillors who put it into operation, or by the local chambers of commerce which rendered frequent assistance to the government by their advice and recommendations.[1]

Local officials and business men attempt to justify the government's policy of inaction in this matter on a number of grounds. The following reply to the criticism above stated was made to the writer by a prominent banker in Singapore, and may be considered as fairly representative of the attitude of most local officials and business men on the subject:

No action on the part of the government for the protection of the debtor class was necessary. Time obligations were contracted in the money of the country without reference to its gold value, and should be paid dollar for dollar in the money of the country which should be legal tender when the obligations became due, regardless of any change that may have taken place in its gold value in the interim.

This argument represents an attitude which is perhaps natural to people who have been in the habit of dealing in a fluctuating

Philippines. They have received the most careful consideration in the recent discussions concerning monetary reform in Mexico and China.

The Philippine government, in its recent currency reform, passed an act for the protection of the debtor class, authorizing debtors having time obligations payable in the old currency to tender payment in the new currency at such a rate of exchange as would fairly represent the value of the old currency in terms of the new on the date the obligations should become due. In determining this rate the debtor was directed to take into account the market price of silver, exchange rates in Hong Kong and various other factors which would be expected to throw light on the gold value the old currency would have had in Manila had it continued to circulate. If the creditor refused to accept the new currency in settlement of the obligation at a rate of adjustment so determined and sought the enforcement of the original contract in any court, the law provided that, upon the establishment of the plaintiff's claim, "it shall be the duty of the court to render judgment for the plaintiff to recover as damages the lawful sum due to him, in Philippine *pesos*, instead of in the currency mentioned in the contract," the basis for computing the damages being the same as that previously mentioned, according to which the debtor was to compute the amount of his local currency debt in terms of Philippine currency.

[1] One of the members of the legislative council informed the writer that this subject was never discussed by that body.

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currency. Even if it be admitted that persons entering into contracts for the payment of money covering a period of years knowingly assume the risks arising from natural fluctuations in the unit of value, it does not follow that they can justly be expected to bear the burdens resulting from alterations in that unit which are artificial and which they could in no manner have anticipated. In fact debtor and creditor alike have reason to expect, as a matter of justice, that if the government finds it desirable materially to alter the unit of value in which existing contracts are stated, it will at the same time see to it that debtors (in case the unit of value is raised) shall either be permitted to pay their obligations in the currency in which they were contracted, or to commute them at equitable rates in the new currency; and that creditors (in case the unit of value is lowered) shall in like manner be legally authorized to insist upon similar terms of settlement. There is no limit to the exploitation of one class for the benefit of another that governments may sanction by altering the unit of value, if in so doing they pay no regard to the equities of existing contractual relations.

The government's policy of inaction in this matter is, however, defended on other grounds of a more substantial character for which due allowance should be made in passing judgment on the course pursued. It is stated that the Straits Settlements are preëminently a trading country, as contrasted with agricultural and industrial countries, and that the number of time obligations is in consequence relatively small. This is probably true, although no figures are available showing the extent to which such time obligations exist. It must be remembered, however, that the new currency is not limited in its circulation to the Straits Settlements proper but is the money of the Federated Malay States and other dependencies as well, and that the economic activities of these dependencies are not preëminently those of trade but rather of agriculture and mining. The number of such obligations may possibly not be great in the Straits Settlements currency area as compared with other countries; but that fact can give little comfort to those who do suffer, and their number in the absolute is unquestionably large.

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A further plea urged in justification of the position taken, and by far the most weighty one, consists in the statements that the debtor class in the Malay peninsula have invested their borrowings principally in that territory, and that their investments are not of a character which are greatly influenced by the sterling value of the dollar; that the two shilling four pence dollar has little more purchasing power at present within the peninsula than the old dollar possessed one, two or more years ago; and that any measure which would permit the debtor to pay his debts in a number of new dollars smaller than the number of old dollars called for in the contract would work an injustice to the creditor, in so far as he should spend the money received within the territory in which the currency circulates. This argument certainly has weight. There is no question that a law authorizing the commutation of time obligations on the basis of the gold value the British dollar would have had in the Straits Settlements, had its circulation not been discontinued, would in many cases work hardship to the creditor class. When due allowance, however, is given to this consideration, the weight of the argument appears to be in the other direction. The injustice referred to would affect those creditors only who are paid during the short period of transition while prices are being readjusted to the new unit of value, and it would not affect all of them, but only such as choose to reinvest their money in the Straits currency area during the short period before prices become readjusted. It is to be expected that this readjustment of prices will be accomplished within a comparatively short time; in fact the future prosperity of the Malay peninsula, so far as it rests on the export trade, is largely dependent upon this very contingency.

It appears, accordingly, that the Straits Settlements currency reform is being effected at the cost of a great temporary disturbance to the country's trade, both domestic and foreign, besides the permanent loss of some portion of its transit trade; and that it is working a serious injustice to the debtor class.

Without attempting to discuss the question whether it would not have been wise for the Straits to have gone immediately upon a gold basis instead of following the Indian plan, let us in-

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quire whether it would not have been possible to eliminate largely the evil results so far experienced and at the same time to preserve most of the principal features of the currency committee's plan.

Although the currency committee did not state in its recommendations at what sterling par the dollar should ultimately be fixed, the public generally believed, as previously stated, that the par to be adopted would be about two shillings. It may now be said authoritatively that this was the par the currency committee had hoped would be established, and that in this hope the officials of the home country and of the colony heartily concurred. The definitive adoption of the two shilling par was postponed only because it was feared that the future course of silver might be such as to endanger the melting down of the dollars at that par. The weight and fineness of the dollar, once decided upon, seem to have been assumed to be unalterable. The silver content of the dollar was the fixed thing, so the currency committee appear to have reasoned; the unit of value was the alterable thing; this was to be adjusted to the coin, and to be fixed at such a rate as to allow a safe margin above bullion value.[1] But, one would naturally ask, why not reverse the procedure? The bullion value of token coins is largely a question of convenience. The bullion content should of course not be so small as to render the coins inconvenient to handle or to give undue encouragement to counterfeiting, nor so large as to endanger their being melted down. Within these limits, however, the bullion content of a token coin is a matter of comparative indifference. The unit of value, on the other hand is a matter of the utmost importance. Alterations in the unit of value, by their uneven effects upon the prices of various classes of commodities and upon wages, and by the derangement they cause in the relations existing between debtor and creditor, profoundly affect the whole economic structure. Variations in the value of the precious metals have frequently compelled countries to alter the weight and fineness of their coins. Within a

[1] *Cf.* for the attitude of Mexico on this subject, Leyes y disposiciones relativas a la reforma monetaria (Mexico, 1905), pp. 21–26.

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short time Japan, Mexico and the Philippines have taken measures in this direction consequent on the recent high price of silver. The Straits Settlements, however, afford the only instance in recent monetary history of a material alteration in the unit of value deliberately made to meet such a contingency.

Suppose the British authorities had taken this view of the problem, what course would they have followed? In the first place they would probably have announced a two shilling par at the beginning as part of the regular scheme, although such an announcement would not have been necessary. The procedure would otherwise have been essentially the same as that actually followed down to about November or December, 1905. By that time the government had discontinued redeeming the old dollars and the work of recoinage was completed. It was at that time, moreover, clearly evident that the silver market was such as to place a two shilling dollar containing 416 grains of silver .900 fine in grave danger of the melting-pot. As soon as this fact was realized the government would have adopted the course recently adopted by Mexico, the Philippines[1] and Japan;[2] it would have taken measures for the immediate recoinage of the new dollars at a much smaller fine-silver content; and inasmuch as this recoinage would yield a substantial seigniorage profit, and as there would probably be some reluctance at first on the part of the public to receive the lighter weight dollar as the equivalent of the old, the government would have

[1] An act of Congress approved by the president June 23, 1906, provides that "the government of the Philippine Islands is hereby authorized, whenever in its opinion such action is desirable, . . . to change the weight and fineness of the silver coins authorized . . . and may in its discretion provide a weight and fineness proportionately less for subsidiary coins than for the standard Philippine pesos, and may also in its discretion recoin any of the existing coins of the Philippine Islands at the new weight and fineness when such coins are received into the treasury or into the gold standard fund of the Philippine Islands; *Provided*, That the weight and fineness of the silver peso to be coined in accordance with the provisions of this section shall not be reduced below seven hundred parts of pure silver to three hundred of alloy."

[2] "The government has promulgated the law passed by the diet last session for reducing the size of the 50 *sen* and 20 *sen* silver pieces. The 50 *sen* piece will become a little larger than the English shilling and the 20 *sen* piece will be about the size of a sixpence." Monthly Report of the Yokohama Chamber of Commerce, no. 116, pp. 3, 4.

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used this profit as the nucleus of a gold reserve fund, supplementing it perhaps by a temporary draft on the security portion of the note guarantee fund and by the floating of bonds sufficient to make the reserve adequate for immediate use. The new dollars would have been made redeemable in gold or gold exchange as rapidly as they were placed in circulation, and dollars would at the same time in like manner have been offered for gold. Under such a procedure there would have been little dislocation of prices; the long period of speculation which so unsettled trade would have been largely eliminated; the status of existing contracts would not have been materially interfered with; and the country would have been firmly established on the gold standard by the autumn of 1905, with a unit of value better suited to its permanent needs than is the present one.

To the above plan, when suggested by the writer to officials and business men in the Straits Settlements, four objections were urged: (1) the difficulty of calling in the new Straits dollars which by the autumn of 1904 had become very widely scattered, many of them having gone outside of the country; (2) the expense of the recoinage; (3) the expense of establishing a reserve; (4) the danger that the public would not accept a dollar of lighter weight.

The first objection is superficial. In the autumn of 1904 the new Straits dollar was nothing more nor less than a silver standard dollar, which the government had exchanged at par for another silver standard dollar, and which carried its value with it in the silver it contained. The government had received full value for these dollars when it placed them in circulation and it would not have been a matter for government concern if some of the subsequent holders of them should not have been willing or able to exchange them for new gold standard two shilling dollars.

To the objection concerning the expense of recoinage, it may be replied that the total expense of reminting 35,372,541 Mexican and British dollars was, according to official figures, $788,-180;[1] that had the new coin suggested been made of the weight

[1] *Cf.* "The Reminting of Dollars in the Straits Settlements" in *Economist*, October 31, 1905, p. 1672.

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and fineness, for example, of the French five franc piece (25 grams .900 fine), the government would have realized on its recoinage a net profit in dollars of about $2,000,000, or in sterling, if the seigniorage were sold as bullion at 30*d.* per standard ounce, of about £200,000—a substantial beginning in either case for a gold reserve.

To the objection of the expense of establishing a gold reserve fund it should be said that the Straits Settlements had no public debt in the autumn of 1904,[1] that the colony was prosperous, and that the matter of the floating of a loan of a few hundred thousand pounds for an object so vital to the colony's welfare should have been considered as a mere bagatelle.

The last objection, *viz.*, that the public would have been averse to receiving a lighter weight coin, deserves more careful consideration. It will be recalled that the scheme of currency reform recommended by the Singapore chamber of commerce in August, 1897, which contemplated the use of government currency notes during the period of recoinage,[2] was objected to principally because of the alleged difficulty of inducing the native holders of the old dollars, especially those of the Federated Malay States, to exchange them for a paper currency with which they were not familiar. This difficulty, which appealed strongly to the Straits currency committee,[3] and particularly to its chairman, Sir David Barbour, whose opinion was based principally upon his experience in India, is taken less seriously by many of the best informed business men living in the colony.[4] The following extract from an official report is in point:

[1] The colony has since contracted a considerable debt through the seizure of the plant of the Tajong Pagar dock company.

[2] *Cf.* Straits Settlements Currency Committee, Minutes of Evidence and Appendices, pp. 107–110.

[3] *Cf.* Straits Settlements Currency Committee, Report, p. 12.

[4] *Cf.* Report of the Singapore Chamber of Commerce for the Year 1905, pp. v, vi; and The Currency: Singapore Chamber of Commerce Letter to Government, December 17, 1902, p. 5.

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The consent of the home authorities was obtained in 1898 to the issue of a government note currency for the colony and the Federated Malay States, and steps were taken in that year to design and print the notes. . . . The new notes were first issued on 1st May. [The amount in circulation by July 10 was $1,118,000, and by December 10 it was $3,820,000.] They at once circulated freely throughout the colony and the Federated Malay States, and the amount issued was only limited by the supplies received from England.[1]

These government notes at the present time have a wide circulation throughout the Malay peninsula. At the close of January, 1906, their total circulation amounted to over $17,000,000, and they are extremely popular everywhere. This experience with government notes affords strong reason for believing that little difficulty would have been experienced in floating lighter weight silver coins.[2] British administration of the Straits Settlements and of the Federated Malay States has been honest and capable; this the Chinaman, the Malay and the Indian know well, and they all have the utmost confidence in the government. A lighter weight coin backed by the government and redeemable in gold or gold exchange on demand would in all probability have passed freely into circulation as rapidly as it could have been coined.

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[1] Report of the Governor of the Straits Settlements, 1899, pp. 6, 7.

[2] For a number of years the twenty-five gram Spanish-Filipino *peso* circulated throughout the Philippine Islands at par with the Mexican dollar. It was a popular coin among the Filipinos and the Chinese, and no one seemed to question its value, although the government never agreed to redeem it in Mexican dollars.

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REVIEWS

The Political History of England to 1066. By THOMAS HODGKIN. Longmans, Green and Co., New York, 1906.—xxii, 528 pp.

The Political History of England, 1216–1377. By T. F. TOUT. Longmans, Green and Co., New York, 1906.—xxiv, 496 pp.

The first volume of *The Political History of England*, issued under the editorship of Messrs. Hunt and Poole, will have more than ordinary interest for the student on account of the previous historical preoccupations of the author, Dr. Thomas Hodgkin. He is the first of the many historians of this early period to approach his subject principally from the direction of Rome and the continent. An assiduous student of one important aspect of the Germanic migrations and the dissolution of the Roman empire, Dr. Hodgkin has not been able to dismiss ancient Britain and the Roman occupation with a few pages, as did Stubbs, Freeman and Green. On the contrary, he devotes upwards of one hundred pages to that portion of his field and with eminently satisfactory results. Furthermore he does not find it necessary to dwell very long on the Teutonic fatherland of the English nation; the reason for this is made apparent by his conclusion that perhaps "we should accept and glory in the term Anglo-Celt rather than Anglo-Saxon as the fitting designation of our race." Neither does our author feel it incumbent upon him to describe the "peculiar political institutions" which the Teutons had before their advent on the soil of Britain; in other words we have left the "German forests." However, Dr. Hodgkin believes that the depression of the free *ceorl* was a part of the historical process in Anglo-Saxon times. The authority on which he bases this conclusion is not very convincing, because in the main it consists of two rather uncertain fragments of Anglo-Saxon laws which, it seems, he accepts without due caution. He assumes that the "twelve-hynde man" section, which Thorpe prints at the end of the laws of Edward and Guthrum, is older than the "North people's law," and argues that because the latter values the *ceorl* at forty shillings less than the former, there has been a decline in status. This looks sound enough, but it happens that we do not know which of the two laws is the older or whether they apply to the same part of England at different periods.

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At all events Liebermann in his critical edition of the laws cuts the "twelve-hynde man" section away from the laws of Edward and Guthrum and places it, for reasons not yet assigned, among undated fragments. In view of the uncertain dating and meaning of Anglo-Saxon laws, it seems that Dr. Hodgkin has made here a generalization too large for the evidence.

Another fragment of the Teutonic theory lingers in our author's view of the Anglo-Saxon *witan*, who, he maintains, had a "powerful voice in the election of the king" (p. 232). Though in a foot-note he calls attention to the divergent views of Mr. Chadwick, he rests his conclusions largely on the language of the Chronicle. Now there are good reasons for believing that this source properly understood destroys this theory. Again and again we read in the Chronicle that a king has acceded to his ancestral throne without any mention of election, and when we do read about an "election" it is generally under such peculiar circumstances as to lead us to suspect that it did not amount to much. For example, according to the Chronicle, Cnut was "chosen" king.

There are some vague statements that will give the lay reader wrong impressions rather than help him. For example, in connection with the conversion of Northumbria our author states that the act was that of the "nation," because the king associated his *witan* with him in making the decision. This assumption that the ruling class was identical with the nation is constantly made by Freeman, Stubbs and Green; but it is now time that scholars should be more precise in their terminology. Again our author says that "though feudalism certainly was not materialized in England, the spirit that prompted it was in the air" (p. 441). Surely this statement would not enlighten our "general reader" to whom this series especially appeals.

Dr. Hodgkin's narrative is readable, accurate and well proportioned. Half of it is devoted to the story before Egbert's day; Alfred the Great gets fifty pages; Cnut and Edward the Confessor fifty more; and Anglo-Saxon legislation another fifty. While in general the volume, especially the first part, is well written, the average reader will doubtless find the quotations from the sources too long and not well enough sifted and digested by the author. The same criticism applies also to such sections of the work as deal with institutions, for example, the pages devoted to the hundred court (pp. 427–429). The portion of the book dealing with Roman Britain is decidedly the best, for it is more artistically balanced and shows a greater mastery of the materials and the problems of construction than do the other parts.

The third volume of the series, covering the period from the Great

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Charter to the death of Edward III, is by Professor Tout of the University of Manchester, whom previous works and stray studies published from time to time in the *English Historical Review* have shown to be well oriented in the field allotted to him. The century and a half during which these four sovereigns ruled was filled with wars, treasons and murders, and Professor Tout has done this aspect of his subject full justice. There are more than six hundred topics given in the table of contents and over two hundred are of this grewsome sort. This was also the age in which Oxford and its colleges grew up, in which Roger Bacon wrote, the friars labored, Edward I legislated and Parliament took general form, and in which Chaucer, Langland, Froissart and Wycliffe worked or began work. Nevertheless the legislation of the English Justinian is disposed of in some ten pages; the coming of the friars, the rise of the universities and the studies of Bacon, in thirteen pages; and kindred topics with the same brevity. It is fair to say, however, that the author is not responsible for this historical perspective but is executing the design of the editors.

Professor Tout has done his work well; his volume is essentially military and narrative history, accurate enough and full enough, it may be hoped, to satisfy students and general readers for many a decade. There are two maps of special value on the Welsh march and the Scotch border. The narrative is based upon the best secondary authorities and is everywhere strengthened by critical reference to sources, so that on the score of accuracy there can be no question as to its trustworthiness. There is only now and then a glimpse of tendency, as for example on page 375, where the author says that the monks in 1351 were "already getting out of touch with the national life"—a general statement difficult to prove. Owing to his constant dealing with personalities, Professor Tout, following in the wake of illustrious authorities, feels called upon to delineate characters; and while he is as successful as other historians, one cannot help being reminded of Voltaire's famous sentence: "As for portraits of men, they are nearly all creations of fancy." Professor Tout gives the usual favorable account of Edward I, concluding that few "mediæval kings had a higher sense of justice or a more strict regard to his plighted word." Now this is a literary device rather than science; mediæval kings generally did not have a very strict regard for their word where their interests were involved; and this measuring of kings against one another without regard to the concrete circumstances in which they worked gives us little that is real or valuable. Quite another impression could be given of Edward I and yet be founded strictly on fact; for he sought steadily to evade

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the limitations imposed by the barons; he violated, as Professor Tout admits, the spirit of his oaths; and he even procured a papal bull from Rome absolving him from his promises of 1297.

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The Cambridge Modern History. Planned by the late Lord ACTON. Edited by A. W. WARD, G. W. PROTHERO and STANLEY LEATHES. Vol. IX: *Napoleon.* New York, The Macmillan Co., 1906.—xxviii, 946 pp.

The chronological limits of this new volume of a now well-known coöperative work are, on the one hand, the beginning of the Consulate in 1799 and, on the other, the close of the Congress of Vienna in 1815. It will be noted therefore that the earlier part of the career of the extraordinary man from whom the volume appropriately takes its title has already found a place among the chapters devoted to the French Revolution, where one must turn for an account of Bonaparte's rise, his first Italian and his Egyptian campaign and his supplanting of the Directory on the 19th Brumaire. The novel order in which the editors have arranged their material—the way in which they have met the eternal difficulty which besets the historical writer of reconciling the demands of chronological sequence with the temptations toward a clear topical treatment—first attracts the reader's attention. The volume opens with a survey of the internal history of France under the Consulate. This is followed by a sudden retrogression to the early years of the Tsar Paul I, as an introduction to an account of the singular conduct of that monarch in European affairs and the general pacification of Europe which shortly followed his death. After a chapter on the dependencies of France, especially Switzerland, the internal affairs of France are once more taken up and the course of events is traced down to the invasion of 1814. There follow three topical chapters: one on the codes by Mr. H. A. L. Fisher; another on the concordats and Napoleon's general relations with the papacy by Mr. Wickham-Legg; a third on "The Command of the Sea, 1803–1815," by Mr. H. W. Wilson. The three succeeding chapters cover the general history of Europe from 1805 to 1809, after which Mr. Rose discusses the Continental system from 1809 to 1814. We are then carried back to review the developments in the several French dependencies and Switzerland during the whole period covered by the volume; after which Mr. Oman appears, introduces us to Arthur Wellesley and does not leave us until that distinguished com-

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mander has entered France as Wellington. The arrangement of the concluding chapters is more conventional—the Russian campaign, the war in Germany, the first restoration, the earlier sessions of the Congress of Vienna, the Hundred Days, the close of the Congress. Room is then found for an account of Great Britain and Ireland from the opening of the revolutionary wars in 1792 to their close in 1815 and for a second chapter on the changes in the British empire at large during this same period. The volume closes with a short account of Napoleon's sojourn on St. Helena and his *apologia*. This order of treatment may not be exceptionally felicitous from a literary standpoint; but few will receive their first ideas of Napoleon from this volume, and to one who is already familiar with the story the arrangement will recommend itself.

As for the contributors, there are several familiar names—those of writers who have had a hand in the preceding volumes—but the internal history of France has very properly been turned over to Professor Pariset of Nancy, while Professor Guilland of Zurich has dealt with the more general European history under the Consulate. Major-General August Keim, of the German army, describes the war of 1809; the Russian invasion has been assigned to Professor Stschepkin of Odessa, and the War of Liberation to Dr. Pflugk-Harttung, formerly professor of history at Basel. Among the English writers of approved ability, Mr. Rose, Mr. Fisher and Mr. Oman are conspicuous.

It is impossible to review such a volume in detail. The separate chapters might, it is true, be criticised, but they contain quite unimpeachable information and there is little tendency to indulge in debatable speculation. The volume is but another example of the strength and weakness of the system adopted for the whole work; and this has already been discussed in a previous issue of the POLITICAL SCIENCE QUARTERLY (vol. xviii, pp. 681 *et seq.*).

J. H. ROBINSON.

The Negro and the Nation: A History of American Slavery and Enfranchisement. By GEORGE S. MERRIAM. New York, Henry Holt & Co., 1906.—436 pp.

This book at once suggests comparison with John C. Reed's *The Brothers' War*, published last year. Both deal with the same subject, the negro influence in American history, and in both the treatment is calm and philosophical, as befits books written by men of wide reading and experience. It must be said that the earlier work is more original,

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and that it suggests a more judicial temper in its author. Mr. Reed kept his attention fixed upon the negro, while Mr. Merriam allows politics to hide the colored brother most of the time. Reed treats a hackneyed subject in a new way, exhibiting new facts; Merriam follows old and well-trodden paths to familiar conclusions. Most of his book is devoted to the political history of the controversy over the negro, and this is narrated from the ethical point of view. Though the history in this part of the book is fairly accurate, no real contribution is made to knowledge nor is the philosophy sound and convincing. To the author pro-slavery and anti-slavery are almost the only important forces in our early history; most else seems to hinge upon these. He sees only pro-slavery forces in ante-bellum territorial expansion. In the Kansas troubles the administration side was certainly weak enough, but here it gets no sort of justice. He overlooks the fact, moreover, that the anti-slavery spirit in the South and West was less due to moral convictions than to social and economic instincts.

After showing that the North and South were politically, socially and economically unlike, he declares that secession could not be because the United States was a "nation." His political theories throughout are those of 1861–65. Secession he pronounces "anarchy," seeing only the superficial aspects of the situation and not the social and industrial forces supporting the movement. To the Southerner it was a desperate measure taken mainly to prevent social anarchy. Time has shown, of course, that the South was mistaken; that after all, in spite of war and reconstruction, the Southerner has about all that he seceded and fought for, *viz.*, the relations between the races described by A. H. Stephens in the much misunderstood "corner-stone" speech. In assuming that Stephens's "corner stone" has been knocked out, Mr. Merriam manifests his lack of acquaintance with the practical present aspects of his subject.

On Reconstruction his views are somewhat contradictory. He condemns the radical policy, analyzes at length the shortcomings of the scalawags and carpet-baggers, and then intimates that the minority of leaderless whites might have controlled affairs, had they seen fit to make the effort, by controlling the negroes. This they certainly tried hard to do in several states, but the attempt was defeated by the radicals. Its success was clearly impossible so long as the radicals remained in power. On the "black laws," which he considers iniquitous, he follows Blaine rather than Burgess, although he cites the latter. Evidently he has read none of these laws nor any of the corresponding laws for the whites. It seems also that he is unacquainted with the substitutes of

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later days. For the facts about Reconstruction Mr. Merriam accepts the testimony of the radical side and rejects that of the other side, even clearing the Ames government in Mississippi on the statements of two carpet-baggers. Following such authorities he naturally finds that most of the deviltry of Reconstruction was on the side of the whites, and that for this there was no justification. He here holds a brief for the reconstructionists. He does not understand why there should have been any fear of "negro domination" after 1876. He shows no knowledge of the manner in which the negroes have been manipulated since that eventful year. In describing the new disfranchising constitutions the objectionable temporary clauses are dealt with as permanent. In short, the entire account of political conditions in the South is superficial and shows a lack of exact information.

The best part of the book will be found in the numerous character sketches of prominent leaders in the nineteenth-century sectional controversies. Of these sketches there are about twenty—from Webster, Clay and Calhoun to Garrison and John Brown. The author's estimates are fair and judicial, in most cases sympathetic, never partisan. Mr. Merriam can understand and describe men much better than the principles they advocate.

The negro in this book is a vague sort of a person, whose main business is to cause a political situation. To "Slavery as it Was" fourteen pages are given—a curious mixture of Harriet Beecher Stowe, Kemble, Smedes, Olmstead, *etc.* To Mr. Merriam slavery was sinful and bad for all; freedom therefore must be the opposite. If he will only read the census volumes, he will find that the average free negro has not been as efficient as the average slave. He can learn the same thing by talking to a Black Belt planter or by going over the accounts of a plantation. It is true that the Southern white usually knows little of the upper thousandth of progressive blacks; Mr. Merriam knows only of these, and generalizes accordingly. There is little evidence of any practical knowledge of the various race problems; to Mr. Merriam there are none. Slavery is the scapegoat, and to it and to the failure of the South to hold proper views about it most complications are due. The author's views appear to be those of a man who has read much and seen little of the things about which he reads and writes. Like objections may be made to his conception of the Southern social system. Here again is the old story: aristocracy and poor whites were distinct classes in the ante-bellum system; the latter was under control of the former, and was "led into revolution," *etc.* Reasoning from conditions found in Boston or New Haven he finds no cause for the race separation

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insisted upon in the South. More and more, he says, do the cultured representatives of both races mingle socially in the North, and he informs the South that its position in regard to social separation of the races must be modified. That there are any real difficulties in the way, any fundamental questions of race, he does not admit.

As to the general tone of the book, it may be said that while the views set forth are those of a generation ago, merely somewhat moderated in their form of statement, yet the author's judgments and expressions of opinion are remarkably free from partisan feeling. It cannot be said that he is sympathetic, for he does not understand; but the kindly intention is always evident, although at times its manifestations are irritatingly patronizing. Considering that the author so seriously endeavors to give an impartial treatment, to maintain a fair attitude, one regrets that he did not see fit to base his work upon a thorough investigation of the subject. For in these days of many books on the race problem, a writer must first be fair-minded in order to write of Southern blacks and whites, and next he ought to be a negro or a Southern white, or one who has at least seen something of these people and their ways. Interest in a problem does not qualify a person to write about it.

WALTER L. FLEMING.
WEST VIRGINIA UNIVERSITY.

La constitución de 1857 y las leyes de reforma en Mexico. Estudio histórico-sociológico. Por RICARDO GARCÍA GRANADOS. Mexico, Tipografía Económica, 1906.—135 pp.

Temperate and well-balanced treatises on the constitutional history of the Latin-American republics are so rare that when one appears it merits a consideration quite out of proportion to its size. Prepared in connection with the celebration of the hundredth anniversary of the birth of Benito Juarez, the present essay of Señor García, a member of the Federal Congress, deals with the most important and interesting episodes in the constitutional development of the republic of Mexico.

Beginning with a discussion of the plan of Ayutla of 1854 as the preliminary to the final overthrow of Santa Anna and the adoption of the constitution of 1857, the author proceeds to describe the political parties of the time. He emphasizes, in particular, the lack of harmony among the Liberals and the pernicious influence of the Conservatives—an influence directed by the military and the clergy to the maintenance of their exceptional privileges and to keeping the bulk of the Mexican people in an abject ignorance altogether commensurate with their material

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backwardness. The work of the Constituent Congress in framing the constitution of 1857, the revolution that ensued, and the radical reform laws of 1859 which provided for the separation of church and state, the secularization of ecclesiastical property and the abolition of the religious orders, are then treated at length. The remainder of the book is given over to an examination of the political, economic, moral and intellectual results of the constitution and the reform laws, after the retirement of the French in 1867 had made it possible to put these measures into operation.

In the opinion of Señor García, the chief defects of the constitution are the grant of universal suffrage to a people wholly unprepared for it and the undue subordination of the executive to the legislative branch of the government. This legal subjection of the presidency has been converted by the peculiar circumstances of the Mexican republic into a practical dictatorship which, as administered by Juarez and Diaz, has proved beneficent beyond expectation. On the other hand the exercise of universal suffrage under executive supervision and control has placed the actual management of public affairs in the hands of the educated classes. The situation thus produced by the agency of forces outside of the constitution ought to be recognized in the organic law itself, declares the author, by

> vesting the rights of active citizenship exclusively in those who possess the knowledge essential for the comprehension and fulfilment of the obligations it entails; and also by amplifying the powers of the president in such a manner as will convert his virtual independence of the legislative into a legal reality [p. 125].

The facts and arguments employed in showing how the separation of church and state, with its accompanying seizure of the ecclesiastical estates, has conduced to the moral, intellectual and material advantage of Mexico, do not differ in substance from those hitherto used in France by the advocates of the same policy. The primary object in Mexico, however, seems to have been the gain of adherents to the Liberal cause by a general distribution of the church lands among a comparatively large number of persons. A secondary purpose, the establishment of peasant proprietorships, was not realized to the extent that might have been desired. While discussing this subject, also, Señor García points with patriotic pride to the act of the commission of the French Chamber of Deputies in embodying in their report on the relation of church and state several of the most important articles in the Mexican law of 1859.

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In the last three chapters the somewhat prolix account of the evolution since ancient times of the idea of separating the secular from the ecclesiastical in matters of public concern, and the copious comparisons drawn between the political conditions in Mexico and those in countries outside of Latin America, might have been omitted without lessening the force of the author's conclusions. Once only does Señor García allow his liberal sympathies to lead him into error; and this when he asserts that the French intervention was provoked by the clergy and the Conservatives as a final resort to save their property and privileges (p. 70). Assuredly Napoleon III needed no such provocation to call his ambitious designs into being.

WILLIAM R. SHEPHERD.

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The German Empire. By BURT ESTES HOWARD, PH.D. New York, The Macmillan Co., 1896.—viii, 449 pp.

We have long needed a simple statement in English of German federal constitutional law, and this Mr. Burt has given us. After a brief and, it must be confessed, inadequate account of the immediate antecedents of the founding of the German empire, the author devotes a short chapter to the relations between the empire and the single states. He then takes up the "Kaiser," the "Bundesrath," the "Reichstag," "Imperial Legislation," the "Imperial Chancellor," "Citizenship under the German Empire," and the "General Organization of the Empire." There follows a chapter on "Alsace-Lorraine," which has already appeared in the POLITICAL SCIENCE QUARTERLY. The "Constitution and Imperial Finance" are treated in considerable detail, and the book closes with a long chapter on the "Armed Forces of the Empire." In an appendix an English translation of the imperial constitution is given.

It is clear that the writer is familiar with all the great works upon his subject, both historical and legal. He has chosen, however, to limit his presentation, for the most part, to a well ordered explanation of the provisions of the German constitution as commonly interpreted. He makes no effort either to place the system in its historic setting or to suggest the theoretical developments which make the work of Laband such fascinating reading; nor has he attempted to illuminate his subject by making any of the comparisons which naturally suggest themselves between the German federal constitution and our own. It is well known to all students of comparative constitutional law that

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those particular traits which we have been wont to regard as essential to a successful federation were not recognized by the founders of the German constitution. There is, for example, the most startling difference between the constitutional rôle of our supreme court, which has always been properly recognized as an organic and indispensable feature of our federation, and the position of the *Reichsobergericht* at Leipzig, whose part in the moulding of the constitutional law of Germany is negligible. Then there is the prerogative and duty of the *Bundesrath* to adjust internal constitutional conflicts in the several states of the union. This right, as it has been interpreted, would have been declared by the founders of our constitution to be subversive of the whole federal principle. Mr. Burt could, therefore, easily have written two volumes instead of one; but he has done well what he chose to do, and his readers may be confident that they are getting from his book the same impressions of the fundamental provisions of the constitution which they would derive from the elaborate treatises of von Rönne, Laband, Meyer, Schulze, Haenel, Zorn and the rest.

J. H. R.

La constitution juridique de l'empire colonial Britannique. Par H. SPEYER. Paris, A. Rousseau, 1906.—viii, 337 pp.

Perhaps one of the most interesting spectacles to the student of political science is the making of a new state. Such is the phenomenon which Mr. Speyer has attempted to describe in the book before us. No one, it is true, who makes a study of the British colonial empire can fail to see the many resemblances which it bears to a federal state: but it has remained for Mr. Speyer to show how highly developed is the feeling among the people of Great Britain and her self-governing colonies in favor of some closer union; what are the organs, however rudimentary they still may be, in whose establishment this feeling has found expression; and what difficulties are likely to be encountered in the attempt to express this feeling more emphatically in the organization of still more powerful imperial governmental organs.

Notwithstanding the outburst of pan-British patriotism occasioned by the late war in South Africa, Mr. Speyer thinks that there is at present no insistent demand for a closer political union, and that "the study of the form and powers eventually to be given to a federal organization has hardly even been begun" (p. 327). Indeed, the only organs which can be said to be in any way representative of the

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empire as a whole are the judicial committee of the privy council, upon which sit regularly judges appointed from the colonies, and the colonial conference, which takes place periodically and at which appear the most important public men of the self-governing colonies. At the same time, Mr. Speyer points out that the consciousness of common interests is becoming clearer to both British and colonials, and that particularly in the domain of imperial defense there is growing up a belief in the necessity of harmonious action on the part of all sections of the empire. Indeed, the committee for imperial defense established by Lord Salisbury has been reorganized by Mr. Balfour in such a way as to permit representatives of the colonies to become members of it, and such representatives have already participated in its deliberations.

Mr. Speyer's book calls attention further, in the part devoted to the consideration of the law in the colonies, to the gradual extension of the principles of the English law, which seems to tend to supplant in the colonies the law which they originally possessed. This extension has taken place, not through any action of the British Parliament, for in this matter almost absolute independence has been accorded to the colonies, but through the action of the colonial legislatures and courts themselves. In last analysis it has been due, in large degree if not entirely, to the sense of kinship and community of interest which appears to be felt by all portions of the English-speaking race. This feeling has of course become keener as a result of the fact that all parts of the empire have, notwithstanding their distance one from another, been brought close together through the enormous improvements in means of transportation and communication which were made during the last century.

Before closing this notice of Mr. Speyer's book as an exposition of the principles of imperial federation, the attention of the reader should be called to the clear and entertaining description of Mr. Chamberlain's campaign for this principle, and of his incidental although necessary attack on the doctrine of free trade which for so long a time has been so dear to the English heart.

While Mr. Speyer's book has been written with the purpose of calling the attention of the reader to the important movement for imperial federation, the fulfilment of the author's purpose has really necessitated the writing of a description of the organization and workings of the British colonial system. Furthermore, the desire of the author to treat his subject exhaustively has made necessary a very full treatment of the British colonial system from both the historical and legal points of view. The result is that, apart from its bearing on the problem of imperial

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federation, the book is one of the best that we have on the British colonies. Indeed there is hardly any book which approaches it in its treatment of the legal conditions in colonial Britain. It is accordingly of value, not only to students of general political science, to whom the phenomenon of the development of a new state will be a most welcome object of study, but also to students in the narrower field of colonial problems, who can hardly fail to be enlightened by a consideration, based on the investigation of the most recent pertinent facts, of the British methods of solving these problems.

F. J. GOODNOW.

Der Bundesstaatsbegriff in den Vereinigten Staaten von Amerika, von ihrer Unabhängigkeit bis zum Kompromiss von 1850. Von ERNST MOLL. Zürich, Schulthess und Co., 1905.—209 pp.

This is a study in American constitutional law by a German scholar, consisting mainly of a review of the early theories concerning the nature of the federal union. Although brief in its compass it is done with characteristic German thoroughness, and shows evidence of wide research and a familiarity with the literature of American constitutional law rarely found in foreign treatises on American history and political institutions. It is remarkably free from the errors which often characterize the attempts of European writers to explain the constitutional relations between the union and the individual states. For these qualities it deserves high praise, although it is hardly entitled to be ranked as a distinct contribution to the subject with which it deals. It is rather a systematic presentation of the opinions of the "fathers" and of the decisions of the supreme court under the domination of Marshall, than an independent treatise on the nature of the federal union.

The author begins his study with a brief discussion of the relation between Great Britain and the American colonies, the relation of the colonies to one another and the nature of the confederation. He then reviews the origin of the constitution and explains the nature of the federal system of government created by it, giving particular emphasis to the relation of the federal and state courts, the rules of constitutional interpretation, the power of the supreme court to declare statutes unconstitutional and the right of appeal. Under the head of "Constitutional Theories" he deals mainly with the question of the location of sovereignty, basing his discussion primarily on the opinions of Madison and Hamilton, whose contributions to the *Federalist* are thoroughly

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examined. He criticises Madison's theory of divided sovereignty and points out the true doctrine, that sovereignty is not divided between the national and state governments but is supreme over each (p. 71). Likewise the views of Jay, Wilson and Jefferson are reviewed at length, the doctrine of the Kentucky and Virginia resolutions is expounded, and the separatist movement in New England culminating in the Hartford convention is traced from its inception in 1804. The doctrine of Marshall and the "Massachusetts school" represented by Webster is compared with that of the "Virginia school" represented by Henry, Mason, Randolph and the two St. George Tuckers, the "precursors" of Calhoun, whose political philosophy constitutes the final chapter of the monograph. About one-half of the work is given up to critical and bibliographical notes. Apparently nothing of value in the immense mass of literature relating to the subject has escaped the author's notice.

J. W. GARNER.

UNIVERSITY OF ILLINOIS.

Les droits législatifs du président des États-Unis d'Amérique. By HENRI BOSC. Paris, A. Rousseau, 1906.—viii, 284 pp.

No one who has followed closely the course of Congressional legislation in recent years can be ignorant of the increasing activity and influence of the president in this field. This careful analysis of the legislative powers of the president comes therefore at an opportune moment; and the fact that the author is a foreign student of American institutions helps to free the work from any political bias.

In two respects, however, the conditions under which the book has been prepared and published prevent it from being an entirely adequate discussion. It is obvious that the writer has not had the advantage of personal observation and investigation in this country, but has had to depend on materials available on the other side of the Atlantic, supplemented by some correspondence with Americans. And the date of publication, at the beginning of the present year, precedes the exciting and significant events of the last session of Congress. Nevertheless it is a valuable study of the situation up to the time of its publication, and shows clearly the tendencies of which later events have been but further developments.

The work falls into three main divisions. An introduction considers the principle of the separation of the powers of government, with special reference to the constitutional powers of the president and the dis-

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cussions in the Constitutional Convention of 1787. In the body of the treatise, a first part treats of the positive authority of the president in the work of legislation; and a second part discusses his negative authority or veto power.

In the greater part of the book the author is traversing ground that has been covered by previous writers. Yet even here he has performed a service in bringing together what has been said on various aspects of this subject and in comparing and criticising conflicting views. And his conclusions show a rather remarkable grasp of the points at issue. His discussion of the veto power is based mainly on Mr. Mason's monograph, and there is an abrupt cessation of comment on the exercise of the power since Cleveland's first term. A careful study of the later history would show a marked decline in the exercise of the veto, associated with the development of the positive influence of the president.

Much the most important contribution in the book is chapter 3 of part one, in which Mr. Bosc discusses the actual influence of the president on legislation. Here one feels the lack of concrete information; and his statement of conditions under Presidents Cleveland and McKinley is hardly satisfactory. Of more recent conditions, under President Roosevelt, he is better informed. And his conclusion, based largely on statements from American correspondents, is in the main correct—that an energetic president, backed by public opinion, can and does make himself a powerful positive force in the work of legislation.

There remains, however, room for a more thorough investigation of this subject, both in its earlier phases and in the latest developments, as illustrated in the course of the railroad rate and meat inspection bills of 1906.

Mr. Bosc also gives one chapter to a discussion of the Pendleton bill of 1881, which proposed to admit members of the president's cabinet to the house of Congress, in order to answer questions and take part in discussions, but without a vote. He reaches the conclusion that if this change were made, it would tend in time to establish the English system of a cabinet responsible to the legislature. But in this he seems to have overlooked the experience of Germany, where both in the empire and in the states the ministers have seats in the legislatures without having been made responsible to these bodies.

JOHN A. FAIRLIE.

UNIVERSITY OF MICHIGAN.

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Money and Currency in Relation to Industry, Prices and the Rate of Interest. By JOSEPH FRENCH JOHNSON. Boston, Ginn and Co., 1906.—398 pp.

One is apt, in these days, to approach a new treatise on money with a feeling of satiety. One wonders whether books upon the subject, like money itself, are not growing redundant and likely to depreciate. One foresees the familiar description of the barter régime, the traditional analysis of the functions of money, hopelessly prolonged catalogues of its primitive forms, the by now almost stereotyped illustrations of "Gresham's law" and the usual story of the bimetallic debate told with a bias one way or the other. Approaching a new book upon this oft-tried theme with such anticipations, one is apt to open it with little curiosity beyond that of discovering toward which point of view the author's prejudices incline.

To such money-satiated readers it may be said at once that the present work will afford at many points a grateful relief. The author has exhibited on the whole a wise sense of proportion. He has avoided in general the elaboration of familiar elementary details; he has used the historical and descriptive matter discriminately for the exemplification of principles; and, while restricting the space devoted to the more threadbare subjects, he has put new emphasis upon certain of the larger relationships of money that are less often analyzed. There are few references and scarcely any quotations, and no attempt is made to trace the origin or authorship of any of the principles discussed; all of which is just as well in view of the vast dimensions that monetary literature has attained.

The author must be credited, too, with a freedom from controversial animus all too rare in discussions of this subject. One misses here the rhetorical analogies, the *reductio ad absurdum* and the other modes of ironical rejoinder, which have given to many treatises upon money a more entertaining form and a less judicial substance. Such traditionally turbid and provocative subjects as bimetallism and the relations of the money supply to the volume of credit and to the level of prices are subjected here to the driest kind of analysis. The author's temper is as unpartisan as his style is unbrilliant.

Professor Johnson has aimed in the volume before us to present "a complete exposition of the science of money," making principles "more conspicuous than the facts of coinage and legislation"; and he has achieved no mean success in compressing within the limits of four hundred pages some discussion of almost every question of monetary

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theory that has arisen. He will be commended by many for handling these questions in the language of everyday life, rather than in the esoteric phraseology of the schools. Even so common a phrase as that of "marginal utility" he has relegated to the innocuous obscurity of a footnote. Many will congratulate themselves on being spared the formulas of higher mathematics which usually abound, and will wonder why the author did not also omit the illustrative diagrams (pp. 29, 31, 141, 151, 267). However illuminative such pictured arguments may be to their constructor, they seldom convey any idea to the reader which could not be more clearly expressed in words.

At the same time objection is likely to be raised by the trained economist to the casual employment of technical phrases in senses at variance with accepted usage. Take such an expression as "commodity standard," which in economic books has come to refer to a currency standard that has a stable value in exchange for commodities. Professor Johnson detaches this term altogether from its established connection and applies it to any monetary standard which has an independent value as a commodity, irrespective of the stability of that value. In this sense gold is always a "commodity standard," regardless of its depreciation or appreciation (p. 174). Or take the phrase "forced circulation," which has long been used in English works on money (and likewise, in an equivalent form, in German and French works) in referring to an irredeemable currency. Our author apparently uses the phrase to designate any kind of fiduciary currency which has been made legal tender, whether the currency is convertible or not (p. 319). Again, one would certainly not expect a divergence of usage in the case of so technical a phrase as the "limping standard." The appellation has hitherto been applied to a monetary system under which only one metal is freely coined, while both metals are endowed with unrestricted legal tender power, but to Professor Johnson it apparently means something different. He alludes to the United States as having passed from a limping standard in 1890 (p. 347), impliedly because of the adoption of the so-called "parity clause" in the Sherman act of that year (p. 355). The United States, he tells us, "has definitely placed herself upon a gold basis, but Germany and France are still upon a limping standard" (p. 349). Inasmuch as Germany has now retired virtually all of her full legal tender silver while the United States retains something like five hundred and sixty million dollars of it, the statement would accord better with the facts if it were directly reversed, *i. e.*, if the words Germany and the United States were interchanged. Such verbal eccentricities, other examples of

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which might be mentioned, only promote confusion and should be remedied in the future editions which are likely to be demanded.

Among the descriptive and historical statements a number of other than verbal inaccuracies may be detected. We read, for example, that England established bimetallism in 1666 (p. 237), yet we know that the two metals had been freely (although not gratuitously) coined during the greater part of three centuries before that date. We are told that "England changed the coinage ratio between gold and silver several times during the eighteenth century" (p. 239), whereas the only change in the official rating of the two metals during the entire century was that of 1717. And again, turning to another field, we are informed that the national bank notes in the United States are legal tender "in payments to the government and from the government to individuals" (p. 337), yet strictly speaking neither one of these statements is true, for the notes are not accepted by the government in payment of customs dues, nor can they be forcibly offered by the government, since the government is bound to redeem them. The principal defect in the book is its unsteadiness with regard to facts.

Several of the author's interpretations of monetary experiences are similarly open to criticism. In speaking of the Bank of England notes under the so-called restriction act, the author attributes the fluctuation in their gold value exclusively to changes in their amount (p. 292). It is well known, however, having been pointed out by Tooke among others, that the rating of these notes often moved in directions quite at variance with the changes in their quantity, rising as the quantity increased and falling as it decreased. As a matter of fact, the rating of the notes followed much more closely the changing course of England's fortune during the Napoleonic wars than the fluctuations in the amount of the notes outstanding.

Many will dispute the author's analysis of the events in America incident to the crisis of 1893. The gold exports of the period just before are not to be explained simply as a result of rising prices induced by the issues of the Sherman act (p. 319), nor can the drain in the years just following be attributed altogether to redundant cash which "by raising our price level above that of Europe caused a steady export movement of gold" (p. 356).

Fortunately the larger issues of the book do not depend essentially upon these illustrative details, and criticism of such details must not obscure its really significant achievements in the field of monetary theory. The opening chapters present what to the present reviewer seems an excellent and in the main sound analysis of the influences

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which affect the value of money. Among these influences Professor Johnson does not hesitate, after the prevailing fashion, to emphasize the importance of changes in the money supply; nor does he minimize, as some have done, the significance of credit as a price-controlling factor. We congratulate him for not endeavoring to be original at the expense of proportion and perspective. Another chapter contains an unusually fresh discussion of domestic and foreign exchange, in which the latter is treated, as it should be but rarely is, as merely a development of the former. There are sensible and well constructed chapters upon bimetallism, fiat money, credit money (meaning the convertible fiduciary forms) and upon the history of money in the United States; and there are suggestive if summary discussions of a wide variety of other subjects, such as index numbers, currency elasticity and proposals for currency reform. In a brief but fresh analysis of the effects of a seigniorage, Professor Johnson is among the first to call attention in print to the fallacy in the common assumption that the levying of a seigniorage will always cause prices to rise. He shows that this is not apt to occur under conditions of free coinage. Even supposing that the coins were debased ten per cent and that the government coined and issued all of the bullion presented to the mint, he concludes that prices would not rise, because "any tendency on the part of money to fall in value would be instantly checked by the cessation of coinage, since men would not take bullion to the mint unless it was worth ten per cent more when coined than when uncoined" (p. 189). This fact singularly enough has generally gone unobserved by writers upon money.

The chapters which are most characteristic and which will probably prove most widely interesting are those which discuss the influence of changes in the value of money upon business. Throughout the book this theme is the subject of ever-recurring emphasis. Professor Johnson is not one of those who regard money as an almost negligible lubricant in the economic mechanism. To him it is a dynamic factor, capable of exercising great influence upon production and distribution. The prosperity or decline of general industry, the very welfare of the country, he believes to be subject to its control. In the chapters upon "The Relation of Money and Credit to the Rate of Interest" and upon "The Importance of Price," interest and wages and profits are shown to be powerfully although often insidiously affected by changes in the value of the standard. Some may perhaps feel that the effects of appreciation and depreciation are rather magnified, but the analysis is certainly full of suggestion and well worthy of the unusually large measure of attention that it here receives.

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Professor Johnson's book is a welcome addition to the voluminous literature of money, and with its errors of detail eliminated it will without doubt take rank among the best of the general works upon the subject.

A. PIATT ANDREW.

HARVARD UNIVERSITY.

The Wisdom of the Wise. By W. CUNNINGHAM. Cambridge, at the University Press, 1906.—125 pp.

British Imperialism and Commercial Supremacy. By VICTOR BÉRARD. Translated by H. W. FOSKETT. London, Longmans, Green & Co., 1906.—x, 298 pp.

The two books under review represent, as it were, an aftermath of the recent harvest of British tariff reform literature. The evidence on both sides of the question is already in. What has remained for these two writers is chiefly passionate reiteration of personal conviction. Dr. Cunningham, in spite of the check given to imperialistic tendencies by the recent election, holds firmly to his belief in the beneficence of an imperial *Zollverein* and in its ultimate realization. M. Bérard, a French Liberal, is no less positive in his view that the scheme of a Pan-Britannic commercial union must encounter insuperable obstacles; even if realized, he believes, it could do little to check the decline of England.

What moved Dr. Cunningham to the publication of the lectures contained in *The Wisdom of the Wise* was the seemingly illogical reasoning of the free-trade imperialists, Mr. Haldane and Lord Roseberry, and the presumption of the Fourteen Professors, who in 1903 pretended, in behalf of economic science, to pronounce judgment against tariff reform. These are the "wise," the futility of whose wisdom Dr. Cunningham proposes to lay bare. The first chapter, devoted mainly to Mr. Haldane, is a eulogy upon the classical economists, who dealt in pure abstractions and did not imagine that they were specially qualified to speak upon practical questions. They were therefore strictly scientific in their procedure, as contrasted with the degenerate race of present-day economists who presume to meddle with practical affairs.

In his second chapter our author reiterates the thesis of Seeley, that expansion, imperialism, is a very old tendency of the British people—the key to the interpretation of British history—and therefore in a sense too sacred for criticism. Not content with this justification of imperialism he attempts to illustrate its advantages by means of an analogy. He

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suggests that just as the American trust, without appreciable injury to the public, is able to escape the costs of competition, so by imperial organzation the wastes of racial competition may be avoided. Exactly what the economies to be gained through imperial federation may be, Dr. Cunningham fails to say.

The third chapter has the merit of advancing a new argument for imperialism: that it will do away with the evils of unemployment. It is pointed out that in early modern times, when unemployment, resulting from enclosures, threatened the peace and prosperity of the nation, a systematic reorganization of industry upon national instead of local lines was effected. After that the problem of unemployment disappeared. Why, then, should not the modern problem be solved by a reorganization of industry upon imperial lines? I fancy that the Little Englander may raise the objection that British industry is already organized on international lines, and that a restriction of commercial and industrial relations through a customs war between the British empire and the world would hardly serve to stimulate British trade.

The two remaining chapters of the book have little to do with the fiscal question. The first attempts to show that we have too much religious liberty; the second, that Cromwell was not an imperialist.

M. Bérard wrote his work for French readers, as he explains in an apologetic preface to the English translation. Accordingly it contains some expressions "un peu vives" which he rightly fears may cause the English reader to doubt the reality of his admiration for England, "mère des Parlements, et source des grandes vérités radicales." The book is in large measure a comparison of England and Germany, and the nature of the comparison may be inferred from the following sentences—which, by the way, have acquired through the translation a humorous quality which was absent from the original:

> The gaping rents made in British supremacy may be repaired, and in her patched mantle of imperial purple Britannia may still make a bold show; but humanity has lost confidence and turns away from this failing greatness. Amid cannons' roar and trumpets' blare, amid songs and toasts, the Germany of Kant, of Bismarck and of Wagner, rational Germany, mighty and creative, sits astride the twentieth century [p. 295].

M. Bérard's book is based partly upon the results of personal investigations of British industry, but chiefly upon the Cassandra literature of the Blue Books and the British consular reports. Its chief conclusion is that British industrial supremacy is a thing of the past. The present is an age of science, and the Briton despises science. Eng-

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lish education and English life produce only "admirable animals, men accustomed to every form of luxury and frequenters of every social function, whose fine development of muscle and constitution is undeniable, but whose intrinsic value is quite out of proportion to their cost of maintenance" (p. 281). A coldly scientific discussion of the practical difficulties involved in creating a unified British empire is as foreign to the spirit of M. Bérard as to that of Dr. Cunningham. M. Bérard believes that no practical plan of organization can be found; Dr. Cunningham believes that the indomitable will of the Anglo-Saxon will find the means necessary to the achievement of its purposes. Both books are suggestive and entertaining; neither possesses any high degree of scientific merit.

ALVIN S. JOHNSON.

UNIVERSITY OF NEBRASKA.

Miscellaneous Essays and Addresses. By HENRY SIDGWICK. London, Macmillan and Co., 1904.—viii, 374 pp.

Nothing could better illustrate the breadth and versatility of the late philosopher-economist, Henry Sidgwick, than this posthumously published volume of *Essays and Addresses*. The papers which it contains are classified under three broad divisions: literature, economics and sociology, and education. Under the head of literature are a scholarly criticism of Seeley's *Ecce Homo;* a broadly humanitarian, and therefore not altogether favorable, appreciation of "The Prophet of Culture," Matthew Arnold; and essays on the works of Arthur Hugh Clough and on certain phases of Shakespeare's art. In these papers the reader is given excellent examples of the lighter side of the author's work.

Under the head of economics and sociology may be placed a youthful essay on "Alexis de Tocqueville," a discriminating study of "Bentham and Benthamism in Politics and Ethics," an address on "The Scope and Method of Economic Science," and articles on "Economic Socialism," on "The Economic Lessons of Socialism," on "Political Prophecy and Sociology" and on "The Relations of Ethics to Sociology." Together these papers may well serve as a record of the stage of development to which the social sciences had attained in England at the close of the nineteenth century. As an economist Sidgwick, even more than Marshall, felt the influence of the socialistic movement of which he often speaks in these pages. While he does not go so far as did Mill in his later years, he still discusses sympathetically the claims and

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aspirations of socialism and shows that many of the changes which are commonly thought of as socialistic are really in harmony with the teachings of "orthodox" economics. Here as everywhere his attitude is broadly tolerant. He is eager to see the best in every new proposal and never dogmatic in the assertion of his own opinions.

His attitude towards sociology is that of an interested observer rather than of a convert. He contrasts with telling effect the views confidently advanced by the great system-makers of the science in France, England and Germany—Comte, Spencer and Schäffle—and shows the futility of abandoning the cultivation of economics as a separate science, as had been advocated by Cliffe-Leslie, before sociology has ceased to be speculative and become in a true sense "positive." Finally, in an admirable criticism of two books of very unequal merit, Pearson's *National Life and Character* and Kidd's *Social Evolution*, he shows how far we still are from being able to prophesy in regard to coming social changes. His characterization of the method of would-be social prophets is too apt not to be repeated:

> In order to induce the world to accept any change that they may desire, they endeavor to show that the whole course of history has been preparing the way for it—whether "it" is the reconciliation of science and religion or the complete realization of democracy or the fuller perfection of individualism or the final triumph of collectivism. The vast aggregate of past events—many of them half-known and more half-understood—which makes up what we call history, affords a malleable material for the application of this procedure: by judicious selection and well-arranged emphasis, by ignoring inconvenient facts and by filling the gaps of knowledge with convenient conjectures, it is astonishing how easy it is plausibly to represent any desired result as the last inevitable outcome of the operation of the laws of social development.

The educational essays in the volume—"The Theory of Classical Education," "Idle Fellowships," "A Lecture against Lecturing," and "The Pursuit of Culture as an Ideal"—are quite as valuable in their way as those on literature and the social sciences. Although first published in 1890 the "Lecture against Lecturing" finds the mediæval practices of which it complains still nearly as prevalent as when it appeared. In brief the author's contention is that in this age of cheap printing there is seldom any valid reason for the perpetuation of the formal lecture method of instruction. The matter to be taught should, he thinks, he made available in print and the time of teacher and class should be given entirely, or almost entirely, to questions and discussions

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on what has already been read. These views, which the present writer fully shares, are all the more interesting because they come from one who not only was a lecturer by profession but will long be remembered at Cambridge as one of the most finished academic lecturers of his day.

Space has permitted little more than an enumeration of the titles of the papers in this volume, but it would give the reader an entirely inadequate notion of its value to close without saying something of the charm of the author's style. His literary touch is as light as his thought is often profound. Always earnest, he yet possesses the gift of imparting a flavor of humor to his treatment of the most serious topics. Thus the reader is carried along even through an abstruse discussion without being made aware of the mental effort he is putting forth. In fact so admirable is the form of these *Essays and Addresses* that it is scarcely too much to say that they merited republication as models of style quite apart from the undoubted timeliness of nearly every one of the discussions which they contain.

HENRY R. SEAGER.

Studies in American Trades-Unionism. By J. H. HOLLANDER and G. E. BARNETT. New York, Henry Holt and Co., 1906.—380 pp.

This collection of essays must be judged from the standpoint of two sciences—pedagogy and economics. It is the second publication of the economic seminary of Johns Hopkins University, the first being the valuable *Trial Bibliography of American Trade-Union Publications.* In the introductory chapters to the present volume, Mr. Hollander states briefly the pedagogical plan. The economic investigator in the seminary has limited himself to "economic microscopics," and has refrained from attempting comprehensive induction, partly by reason of his extreme *Historismus* and partly because of the vast area of the data. Neither governmental agencies nor independent investigators have sufficed to give us the needed material for the extensive or experimental induction of the physical scientist. In lieu of these the economic laboratory of the American university must be the prime factor in economic research. This includes the teaching staff, the students in residence, affiliated workers, and, most of all, it includes "investigation funds" which shall enable these investigators to travel. The editors have been fortunate, through the generosity of a friend and a grant from the Carnegie Institution, in securing these funds; and in the course of the two years' preparation of this volume they and their stu-

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dents have scoured the trade-union field. This field was selected partly because it was necessary to work in a limited department of economic research in order to have both the unity and variety required for the comparative method of group investigation, and partly because labor problems are the dominant economic concern of the American people.

It is to be feared that the latter consideration has led the editors to premature publication of their students' work. As a pedagogical device for training students in research the plan is incomparable. Each member of the seminar is assigned a topic which he is to investigate comparatively in the leading trade unions. But the present volume contains only a part of the results and marks "a stage, not a goal," in the inquiry. It presents us with selections of particular unions to illustrate the several topics. This illustrative material might be important and significant if the student who investigates each group of unions knew enough of other unions to be able to bring out the points of comparison. As it is, the book has the defects of unrelated amateur recital of events without the gains of the coöperative method which the editors have so successfully practiced. These defects are fully shown if one compares the chapter on the "Finances of the Iron Moulders' Union," by Mr. Sakolski, with the excellent monograph completed two years later by the same writer, entitled *The Finances of American Trade Unions*.

The other horn of the dilemma is found in the chapters in which the students have attempted a moderate amount of generalization, as in the chapter on the minimum wage in the machinists' union, and in those on apprenticeship and trade-union rules in the building trades. It is much more difficult for students to deal with such subjects than to investigate the structure and finances of particular unions, because in the latter class of subjects the data are taken from a single official source, and there is no demand for inferences, comparisons, weighing of evidence or discussion of the merits of this or that policy. It is different in the more economic and industrial topics. Here either the generalizations follow simple and self-evident clues, or important factors are overlooked or poorly weighed, and economic inferences or summary judgments are drawn from only a part of the great field of complicated data. While the chapters give promise of excellent work and fully justify the pedagogical plan, we must look for the real contributions to economic science and labor problems in the further inquiries of the investigators.

JOHN R. COMMONS.

UNIVERSITY OF WISCONSIN.

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The Secret of the Totem. By ANDREW LANG. London and New York, Longmans, Green and Co., 1905.—x, 215 pp.

Mr. Andrew Lang's position among students of social origins is, like his position in literature, essentially that of the critic, although he has contributed not a few bits of constructive theory to our sociological philosophy and obviously desires to be recognized as a scientific investigator. His books are all deserving of serious consideration, and whether as discoverer or as critic his intrusion into any new field compels respectful attention and some re-arrangement of our provisionally accepted conclusions.

Mr. Lang is at present the principal champion of what may be called the Darwinian view of primitive domestic relations, in opposition to the theories of polyandry or promiscuity. In his volume on *Social Origins and Primal Law,* he gave to the public, with an elaborate introduction of his own, the valuable observations of Mr. J. J. Atkinson in Australia. These observations seem to bear out Mr. Darwin's theory that primitive man, like the ape, was a jealous animal, and that the sire in each group, expelling adolescent male offspring from the band, kept his female mates to himself. From this practice Mr. Atkinson and Mr. Lang undertook to deduce the whole system of "avoidances" between kinsfolk in savage society. I have elsewhere pointed out[1] that such an expulsion of weaker males as Lang and Atkinson assume would in reality lead to polyandry as often as to polygyny, inasmuch as the banished males would provide themselves with stolen females to be shared in common. This curious oversight of obvious possibilities on the part of Mr. Lang is a good illustration of his scientific limitations. What he sees he sees so clearly that his vision becomes fixed upon that bit of truth only.

This defect is conspicuous in his present study of totemism. It is highly probable that Garcilasso de la Vega's theory of the origin of totemism, which Mr. Lang accepts and elaborates, contains a large measure of truth. It assumes that totemism arose in the early efforts of human groups to differentiate each from the others. But when this theory is developed into an explanation of savage culture and social organization in terms of nicknaming and is pushed so far as to become an attack all along the line upon the work of Frazer, of Howitt and of Spencer and Gillen, it ceases to be in all points convincing.

F. H. G.

[1] Descriptive and Historical Sociology, pp. 450, 451.

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RECORD OF POLITICAL EVENTS.

[From May 1, 1906, to November 6, 1906.]

I. INTERNATIONAL RELATIONS.

AMERICAN INTERVENTION IN CUBA.—In the middle of August a rebellion broke out in Cuba against the Palma administration (see LATIN AMERICA). The movement spread with such rapidity and became so formidable that on September 8 President Palma, feeling himself unable to protect life and property, requested through Consul-General Steinhardt that the United States intervene under the Platt amendment and send two war vessels, one to Havana and the other to Cienfuegos. Although averse to acting until the Cuban authorities had exhausted every effort to put down the insurrection, the government at Washington sent the vessels, but at the same time urged that the Palma government come to a working agreement which would secure peace with the insurrectos, provided the government was unable to hold its own with them in the field. "Until such efforts have been made," ran a dispatch of September 10, "we are not prepared to consider the question of intervention at all." Nevertheless, the Cuban government continued to ask urgently for aid. On the 10th, after a conference between President Palma, American Chargé d'Affaires Sleeper, and Commander Colwell of the United States vessel "Denver," a detachment of 120 men, armed with rifles and machine guns, were landed in Havana; but as this action had been taken without consulting Washington, orders were transmitted for the men to reëmbark. The situation was so serious, however, that on the 14th President Roosevelt directed Secretary of War Taft and Acting-Secretary of State Bacon to proceed to Cuba, to make a thorough investigation and to render such aid as might be necessary to bring about an immediate cessation of hostilities and the permanent pacification of the island. On the same day the president addressed a long and well-considered letter to Señor Quesada, the Cuban minister at Washington, in which, after expressing the sincere interest he felt in the welfare of the island, he solemnly adjured Cuban patriots to sink all differences and ambitions and to remember that the only way they could preserve the independence of their republic was to prevent the necessity of outside interference. At the same time he made clear his imperative duty to secure a cessation of hostilities and the restoration of peace and order. On the 16th an armistice was proclaimed by the Cubans, and two days later Messrs. Taft and Bacon arrived at Havana and began to investigate the situation. Many propositions for a peaceful settlement were considered without avail, and on September 28 President Palma and Vice-President Capote brought

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matters to a crisis by tendering their resignations to a special session of the Cuban Congress. Convinced that it was impossible to bring about any kind of reasonable compromise between the factions, Mr. Taft, following instructions from Washington, on the 29th issued a proclamation taking temporary control of the island under authority of the United States, with the declared purpose of restoring order, protecting life and property and establishing permanent peace. In this proclamation he expressly stated, however, that "the provisional government hereby established will be maintained only long enough to restore order, peace and public confidence, by direction of and in the name of the president of the United States, and then to hold such elections as may be necessary to determine on those persons upon whom the permanent government of the republic should be devolved." Thanks largely to Mr. Taft's skill and tact, no resistance to American occupancy was offered by either faction. A disarmament commission was at once formed, with General Frederick Funston at its head, which included representatives from both the Cuban government and the insurgents. Marines were landed at Havana and Cienfuegos, and as soon as possible a force of about six thousand regulars was dispatched to the island. On October 9 Governor Taft issued a proclamation of amnesty covering all offenses committed by the insurgents. Four days later Messrs. Taft and Bacon left Havana amid cheers from the people, and Charles E. Magoon, until recently governor of the Panama Canal zone, took charge of the island as provisional civil governor.

OTHER AMERICAN INTERNATIONAL RELATIONS.—Next to the intervention in Cuba the most interesting international event during the past six months has been the meeting of the **Pan American Conference** at Rio Janeiro (see last RECORD, p. 357). The United States and all the Latin American states except Haiti and Venezuela were represented. The first meeting of the conference occurred on July 23. Señor Joaquin Nabuco, Brazilian ambassador to the United States, was chosen permanent president. On the 27th Secretary of State Root arrived at Rio on board the United States cruiser "Charleston" and was enthusiastically received. In a speech delivered on the 31st he set forth his views concerning the function of the congress, which, he said, should be to secure a policy of mutual aid among the American republics. He also disclaimed any desire on the part of the United States to adopt a policy of aggression toward her neighbors, and appealed to the congress "to create, maintain and render effective a purely American public opinion, the power of which would influence international policy, prevent international disagreement, limit the causes of war and forever preserve our territories from the burden of armaments accumulated behind the frontiers of Europe and bring us ever nearer to perfection and to true liberty." Early in August the congress unanimously adopted a resolution which recommended that the American republics should instruct their delegates to the second Hague Conference to endeavor to secure the adoption by the conference of an arbitration convention worthy of accept-

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ance and enforcement by every nation. Among the subjects most fully discussed was the so-called Calvo or Drago doctrine "that there should be no diplomatic or military interference of one nation with another for the purpose of enabling private persons or corporations to collect debts from those of another country." This doctrine was approved by the congress and was unanimously referred by it to the consideration of the Hague tribunal. Among other measures, the conference adopted a resolution presented by Mr. Buchanan, head of the American delegation, providing that the countries represented should prepare statistical tables showing the monetary fluctuations of the last twenty years.—Mr. Root left Brazil early in August and subsequently visited the capitals of Uruguay, Argentina, Chile and Peru. In various speeches he emphasized the importance of adherence by the Americans to the Monroe doctrine, and it is believed that his visits have done much to remove old prejudices and to improve the relations between the United States and the South American states.—The revolt which began in Guatamala in May (see LATIN AMERICA) resulted in serious international complications in **Central America.** On the ground that San Salvador was assisting the rebels, Guatamala declared war upon that state. Later, a force of Guatamalans having crossed the border into Honduras, this state also became involved in the conflict. After several sanguinary battles had been fought, the United States and Mexico tendered their good offices, and a meeting of representatives of the belligerents was arranged to take place on the United States cruiser "Marblehead." The first meeting occurred on July 18. Our chargé d'affaires and the Mexican minister to Central America acted as arbitrators, and on the 20th the belligerents agreed to a treaty which provided for the establishment of peace, the withdrawal of military forces within three days, an exchange of prisoners, the negotiation within two months of a treaty of friendship, commerce and navigation, and the reference of future disputes to arbitration by the president of the United States and the president of Mexico. In accordance with the terms of this treaty, a peace conference was opened on September 16 at San José.—The treaty between the United States and **Santo Domingo** (see last RECORD, p. 356) has not yet been passed upon by the United States Senate. It is reported that a new treaty may be negotiated.—Last year, when the operation of the new customs tariff of **Germany** was postponed in our behalf (see last RECORD, p, 356), the Washington government promised to ask Congress to make certain changes in our customs laws. A recommendation to this effect was made to Congress by the secretary of the treasury, but Congress adjourned without taking any action. Complaint has been made by Germany over this failure. It has been recently announced that the state department will send experts to Germany to study the tariff question. On July 31 it was announced that the United States would pay Germany $20,000 in settlement of the Samoan claims.—Diplomatic relations between the United States and **Colombia** have become somewhat more friendly. Early in July it was announced that Enriquez Cortez had been appointed minister

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at Washington.—On July 16 **Japanese** subjects, who had been illegally killing seals on and near St. Paul island, were fired upon by the American guards. Five poachers were killed, others were wounded, and twelve were captured and held for trial. The United States government reported the matter to Japan as a regrettable incident, but made no apology. Japan instituted an investigation to ascertain the facts, but in no way displayed a disposition to make trouble over the incident. In October, Japan protested against the exclusion of Japanese children from the schools provided for white children in San Francisco. On October 26 President Roosevelt directed Mr. Metcalf, secretary of commerce and labor, to proceed to San Francisco and make a thorough inquiry into the situation. On the same day Judge Wolverton of the United States circuit court issued an order to the board of education to show cause why an injunction should not issue to compel the reinstatement of I. Yasura, one of the excluded children.—Friction over the question of fishery rights in the waters about **Newfoundland** has continued. In September, by direction of President Roosevelt, a government vessel was dispatched to investigate the situation and gather facts for use in approaching fisheries negotiations. In October a *modus vivendi* was arranged for the coming season. As Newfoundland was not consulted by the home government in making this arrangement, the people of the island complain that their interests have been betrayed.

EUROPEAN INTERNATIONAL RELATIONS.—The *entente cordiale* between **Great Britain** and **France** was again demonstrated early in May in hospitalities accorded to King Edward in Paris by President Fallières and by the visit of English officers of high rank later in the year to the French manœuvres.—In June, with the evident purpose of discrediting reports of coldness between Emperor William and King Victor Emmanuel and of a weakening of **the triple alliance**, Emperors Francis Joseph and William on the one hand and the King of Italy on the other exchanged published telegrams.—Meanwhile the relations between **Great Britain** and **Germany** appear to have improved. On May 22, after the return of representatives of German cities from a visit to England, where they were cordially received, the German foreign secretary announced that in his opinion "the period of estrangement (*Verstimmung*) between Germany and England is past." Still more tangible proof of improved relations was afforded in August by a personal meeting of the sovereigns of the two countries in the castle of Friedrichshof at Cronberg.—Negotiations resulting in a better understanding between **Great Britain** and **Russia** also are said to have been in progress during the past few months. A proposed friendly visit of a British squadron to Russian ports was however abandoned, at the instance of Russia, lest it produce undesirable results.—The higher officers who participated in the assassination of the late King Alexander having been retired from active service, Great Britain early in June announced an intention of resuming diplomatic relations with **Servia**, and J. B. Whitehead, chancellor of the embassy at Berlin, was appointed minister at Belgrade.—

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The expulsion of Greeks from Roumania led in May to a severance of diplomatic relations between **Greece** and **Roumania**.—In order that the American representative might be able to secure access to the sultan at all times, the American legation at Constantinople was raised to an embassy. The change was not pleasing to the sultan, and it was not until October, after long delays, that Ambassador Leishman was able to present his credentials.—The Turkish occupation of the Sinai peninsula (see last RECORD, p. 355) having continued in spite of all protests, the British government, on May 3, delivered an ultimatum to the porte, demanding that within ten days the sultan should withdraw his troops from the disputed territory. As Great Britain was evidently ready to use her army and navy to enforce the demand, the sultan, on the advice of representatives of various other powers, yielded, and the troops were withdrawn.—The relations between **France** and the **Papacy** (see last RECORD, p. 354) have continued to be strained. In August, in an encyclical dealing with the separation law, the pope took the position that religious worship associations can not be formed without violation of the sacred rights of the church and that so long as the law continues unchanged it would not be permissible for Catholics to adopt other forms of association.—A new commercial treaty between France and Switzerland was announced in October.—The Universal **Postal Union** closed its sixth session at Rome late in May. Its main achievement was the cheapening of the postage rate on heavy letters. It also evolved a plan for "reply coupons."—The fourteenth **Inter-Parliamentary Peace Conference** was opened on July 23 in the royal gallery of Westminster palace, London. Lord Weardale was elected president, and the delegates were welcomed by Sir Henry Campbell-Bannerman, the English premier. For the first time the Russian nation was represented; but upon the news of the dissolution of the Duma (see RUSSIA) the Russian delegates withdrew. On July 24, after an eloquent speech by Mr. William Jennings Bryan, of Lincoln, Nebraska, a resolution was adopted that in international disputes not of a nature for arbitration hostilities should not be resorted to before mediation or the appointment of an international commission.

ASIATIC INTERNATIONAL RELATIONS.—The boundary dispute between **Turkey** and **Persia** (see last RECORD, p. 355) still remains unsettled. Late in June an attempt on the part of a Turkish force to seize additional territory was checkmated by the governor of Pushkar, who repulsed the invaders with considerable loss. In August the Persian ambassador at Constantinople was informed that Turkish troops had occupied the district of Margovar, containing some twenty-five villages, and he thereupon lodged an energetic protest with the porte. About the same time the Turkish commission appointed to inquire into the dispute reported in favor of the Turkish contention.—Early in May an edict was issued in **China** looking to the restoration of Chinese control over the customs administration, the object seemingly being to secure more money for military reforms and perhaps to evade the payment of foreign indebtedness. Vigor-

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ous protests were lodged against such action by the representatives of the powers, and after a long attempt at evasion the Chinese government promised to retain Sir Robert Hart at the head of the customs system.—The Chinese boycott of American goods (see last RECORD, p. 356) still continues, and the importation of some articles has fallen off fifty per cent.—Progress has been made in the evacuation of **Manchuria** (see last RECORD, p. 355) and in the opening of that region to foreign trade. On September 1 Dalny was opened by the Japanese as a free port.—In May a dispute arose as to whether the Russian consul-general to **Korea** should receive his *exequatur* from the emperor of Korea or from the emperor of Japan, but in June Russia gave way and consented that he should receive it from the mikado.

AFRICAN INTERNATIONAL RELATIONS.—A dispute between France and Turkey regarding the frontier between **Algiers** and **Tripoli** arose in July; but on August 27 it was announced that Turkey had agreed to evacuate Djanet or, if the place had not yet been occupied by the troops sent thither, to countermand the order of occupation, and that the *status quo* should be reëstablished until an arrangement could be made to fix the boundary more definitively.—Early in July it was announced that an Anglo-French-Italian treaty had been negotiated with **Abyssinia**. The main features of the treaty are a guarantee of the integrity of the Abyssinian empire, the adoption of the principle of the open door and commercial equality for all countries, and the continuation by the French of the railroad connecting Addis Ababa, the capital, with the coast.—Early in May a German force, while in pursuit of Marengo, the leader of the Herero rebellion in Southwest Africa, crossed the border into **Cape Colony**. The German government soon after voluntarily apologized for the incident and promised to prevent its recurrence. Marengo himself was taken prisoner by the Cape police.—In September a special German mission visited Fez, the capital of **Morocco**. Early in October Mr. Gummere, the American minister, demanded that a troop of cavalry be sent to capture Kaid Relia, a chief who had connived at the escape of a soldier who had assaulted the son of a Mohammedan who was under American protection. He also demanded the punishment of the guilty persons and an indemnity. Continued disorders in Morocco (see ASIA AND AFRICA) caused France and Spain in October to dispatch warships to the ports of that country.

II THE UNITED STATES.

THE ADMINISTRATION.—The struggle between the president and his opponents in Congress (see last RECORD, p. 358) was continued during May and June. A question of veracity having arisen between the president and ex-Senator Chandler, who had been acting as an intermediary between the president and Democratic supporters of the railroad rate bill, the incident was seized upon by the president's enemies, and he was subjected to most bitter attacks, particularly from Senators Bailey and Tillman. How-

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ever, the confidence of the people in the president's policies remained unshaken, and before the adjournment of Congress most of the important measures for which he had been contending were enacted into law (see CONGRESS).—Moved by the outcry raised by revelations in Mr. Upton Sinclair's *Jungle* concerning conditions in the **Chicago meat-packing** establishments, the president sent a commission composed of Charles P. Neill, commissioner of labor, and James B. Reynolds, a former settlement worker, to make an official investigation. As the two discovered many revolting and disgusting conditions, a bill to remedy the evils was introduced into the Senate by Senator Beveridge on May 21, and in support of the bill the president sent Messrs. Reynolds' and Neill's report to Congress, together with a vigorous special message, on June 4. The revelations produced a great sensation both here and abroad, and the bill, with some modifications, finally became a law (see CONGRESS).—Late in June, on the recommendation of Secretary of State Root, the president issued an executive order supplementary to the consular reorganization act, regulating appointments and promotions in the **consular service** by providing that appointments to posts carrying a salary of $2500 or less are to be made after examination or from persons already occupying subordinate posts, and that all the upper grades are to be filled by promotion based on record of service. Political affiliations of the candidate are not to be considered in making appointments.—On October 23 a reconstruction of the **cabinet** was announced, Secretary Shaw will retire from the treasury department and will be succeeded by Mr. Cortelyou, the postmaster-general, whose place will be filled by Mr. George von L. Meyer, of Massachusetts. Mr. Moody also will retire from the position of attorney-general and will be succeeded by Mr. Bonaparte, the secretary of the navy; Mr. Metcalf, the secretary of commerce and labor, will take the place left vacant by Mr. Bonaparte; and the new secretary of commerce and labor will be Mr. Oscar S. Straus, ex-minister to Turkey, the first Jew to hold a cabinet position. Among the other **appointments** made since April are the following: James S. Harlan, of Chicago, and Edward E. Clark, of Iowa, to be members of the reorganized interstate commerce commission; Herbert H. D. Pierce, third assistant secretary of state, to be first minister to Norway; Colonel C. C. Sniffin to be paymaster-general of the army, *vice* Gen. Francis D. Dodge retired; W. M. Shuster and Judge Charles E. Magoon to fill vacancies on the Philippine commission. Judge Magoon was, however, later sent as provisional governor to Cuba. For recess appointment of canal commissioners see THE ISTHMIAN CANAL.

THE DEPENDENCIES.—The activity of the Pulujanes in the **Philippines** (see last RECORD, p. 360) has continued. On June 19 a band of 300 attacked the town of Burauen, in the island of Leyte, killed five policemen, wounded five others and captured the remainder of the force with the exception of the lieutenant in command. On July 22 another detachment of police was badly handled on the same island, and on August 9 still

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another detachment fell into an ambush, with the result that five were killed. Late in the same month, Armogines, a chief, was captured near Baybay, and the situation on the island now seems to be improved, although Lieutenant R. E. Treadwell was killed south of Burauen on September 10. In June many ladrones, among them Macaro Sakay, the self-styled president of the "Filipino Republic," and Francisco Carreon, the vice-president, surrendered to the constabulary. In September, Judge Villamoor, a Filipino, sentenced Sakay and three other leaders to death and Nativitad and 34 other ladrones to twenty years' imprisonment at hard labor.—The Philippine commission has issued an order for the establishment of postal savings banks. In September W. M. Shuster was appointed to one of the vacancies on the Philippine commission.—On the 30th of the same month seventeen provincial governors opened the annual convention of governors at Manila, and others attended the later sessions. The independence party proved to be in the majority and elected a nationalist chairman. The governors manifested much interest in the Cuban situation, and expressed the fear that the failure of the Cuban republic would influence American opinion against the proposed Philippine assembly and restrict the policy of freely extending autonomy to the Filipinos.—Much disappointment was felt in the islands over the failure of Congress to pass a Philippine tariff bill.

THE ISTHMIAN CANAL.—After considerable delay and opposition Congress authorized the construction of a lock canal (see last RECORD, p. 360) across the isthmus. It is estimated that such a canal can be constructed at much less cost and in a much shorter time than one at sea level. On July 20 the bids were opened for $30,000,000 canal bonds, and they were subscribed for several times over at an average of about 103.95. A resolution was passed by Congress providing that materials purchased for use in constructing the canal must be of domestic production and manufacture, except in cases where the president may consider the bids extortionate. As the Senate failed to act upon the nominations for the canal commission, the president after the adjournment of Congress reappointed the old commission, with the exception that Mr. Bishop, against whom there had been much protest, was dropped, and that General Ernst was succeeded by Chief Engineer Stevens. The problem of labor remains a trying one, and it has been decided to make an experiment with coolies. Contracts for 2500 have been prepared. The policy has been violently attacked by Samuel Gompers, president of the American Federation of Labor, as being a violation of the exclusion act and contrary to the interests of American workingmen.

CONGRESS.—The session of Congress which closed on June 30 was marked by more important legislation than any other session for many years. Of the various acts passed the most notable were the railroad rate law, the meat inspection law, the pure food law, an immunity law and the joint statehood law. (For the introduction of most of these measures see

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last RECORD, p. 361.) The **railroad rate act**, which was the Hepburn bill somewhat modified, authorizes the interstate commerce commission to call a hearing and fix a maximum, just and reasonable rate of transportation where the rate in force is complained of, but the railroads are given the right to appeal from such a decision to the courts. Rebates and other discriminations are forbidden, and heavy penalties are fixed for granting or receiving them. Pipe-lines, sleeping-car companies and express companies are declared to be common carriers and are made subject to the law. Railroads are forbidden to engage in any other business than that of transportation. Charges for private freight cars and all charges incidental to the use of them must be included in the transportation charge and cannot be separate items. Passes may be given only to specified classes of persons. The number of commissioners is increased to seven, and the salary of each is fixed at $10,000 a year.—The **meat inspection law** (see THE ADMINISTION, *supra*) requires three inspections by government inspectors of all animals killed for the interstate trade. These must first be inspected alive, and any found to be diseased must be slaughtered separately from the rest. After an animal has been slaughtered the carcass must be carefully inspected and tagged "inspected and passed" or "inspected and condemned." Condemned carcasses must, in the presence of the government inspector, be so treated that their use as food will be impossible. A second inspection of passed meat must be made in order to see if it has become unfit for food. Then an inspection must be made of all meat food products, and, under the inspector's supervision, a label stating the contents is to be put on the can or other receptacle into which the product is placed. All establishments must be kept in a sanitary condition. The government maintains the system of inspection at its own cost.—The **pure food law**, which also applies merely to interstate trade, forbids the manufacture, sale or delivery of any adulterated, misbranded, poisonous or deleterious foods, drugs, medicines or liquors. Foods and drugs are to be considered as adulterated if they contain any substance that causes them to fall below the regular standard in purity, quality or strength. External preservatives may be used if directions for their removal are printed on the package. A false description on a label is regarded as misleading, and the using of such a description is made a punishable offense. Mixtures containing alcohol, morphine, opium and other habit-forming drugs must have printed on the label the quantity of the drug contained. The word "blend," "compound" or "imitation" must appear on the label of mixed liquors, *etc.*, and only harmless flavoring and coloring ingredients may be used.—The **immunity law** was passed primarily in order to make it easier for the government to obtain information of violations of law by corporations. Officers of corporations must now testify to the misdeeds of their company without having recourse to any plea of immunity. It gives the government wider power than ever before to investigate the affairs of corporations.—The **joint statehood law** provides for the admission of Oklahoma and the

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Indian territory jointly, and for the admission of New Mexico and Arizona jointly in case each of these two territories voting separately gives a majority in favor of such admission.—A new **naturalization law** imposes stricter requirements for admission to citizenship. One of its provisions is that no alien who is unable to read and write may become a citizen. Provision is also made to prevent the possibility of fraudulent naturalization. In case a naturalized citizen remains abroad for five years or more his rights as a citizen may be revoked. This provision (which is found in many of the treaties concluded by the United States but now first appears upon the statute-book) is aimed at those persons who, after obtaining American naturalization, return to their original homes and claim the privileges of American citizenship without discharging any of the duties of citizens. The division of naturalization is combined with the bureau of immigration, which is now to be known as the bureau of immigration and naturalization. A national **quarantine act** replaces the discordant state rules with a uniform system of restrictions.—Other acts provide for reorganizing the consular service, appropriate $25,000 a year for the president's traveling expenses, make the Mariposa grove of big trees a national reservation, prohibit the canteen system in soldiers' homes, and exempt denatured alcohol from the internal revenue tax. The total appropriations made by the Congress amounted to about $875,000,000.—Among the measures which failed of passage were the bill granting full citizenship to Porto Ricans, the Philippine tariff bill and the bill for regulating campaign contributions. The Santo Domingo, Isle of Pines and Morocco treaties also went over.

THE FEDERAL JUDICIARY.—In the cases of the Security Mutual Life Insurance Co. *v.* Pruitt and of the Insurance Commissioners of the State of Kentucky and the Travellers Insurance Company of Hartford *v.* the same, decided May 14, the supreme court held that a state has the power to prevent a foreign corporation from doing business within its borders unless such prohibition is so conditioned as to violate the federal constitution; and that a state statute which, without requiring a foreign insurance company to enter into any agreement not to remove into the federal court cases commenced against it in the state court, provides that if the company does so remove such a case its license to do business within the state shall therefor be revoked, is not unconstitutional.—In Pearson *v.* Williams, United States commissioner of immigration, decided May 14, it was held that the secretary of commerce and labor has a right under the act of March 3, 1903, to order, after a second hearing before a board of special inquiry, the deportation of an alien alleged to have come to this country under contract to perform labor, although there had previously been a special inquiry before the same persons and upon the same questions at the time of the alien's landing and he had been allowed to land. The board of inquiry is not a court but an instrument of the executive power, and its decision does not constitute *res judicata* in a technical sense.—In the case of Burton *v.* United States, decided May 21, it was held that Congress has power to make it an offense

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against the United States for a senator or representative, after his election and during his continuance in office, to agree to receive, or in fact to receive, compensation for services before a department of the government in relation to matters in which the United States is directly interested. The fact, however, that the sentence imposed upon a senator convicted of an offense includes the affirmation that he is rendered forever thereafter incapable of holding any office of trust or emolument under the government of the United States does not operate *ipso facto* to vacate his seat nor does it compel the Senate to expel him or to regard him as expelled (see STATE AND MUNICIPAL AFFAIRS, *infra*).—In Ayer and Lord Tie Company *v.* Commonwealth of Kentucky it was held that vessels which are owned by a corporation domiciled in one state and which, though enrolled in a part of another state, are not engaged in commerce exclusively in the latter state but in interstate commerce and are taxed and have acquired a permanent situs for taxation in the first state are not subject to taxation by the second state.—In Willard *v.* Roberts it was held that the constitutional provision that revenue bills must originate in the House of Representatives and not in the Senate is applicable to bills that levy taxes in the strict sense of the word and not to bills for other purposes which may incidentally create revenue.—In McNeill *v.* Southern Railway Co. and Southern Railway Co. *v.* McNeill, it was held that while a state may confer power on an administrative agency to make reasonable regulations as to the place, time and manner of delivery of merchandise moving in channels of interstate commerce, any regulation which directly burdens interstate commerce is repugnant to the federal constitution.—In People of the State of New York upon the relation of the New York Central and Hudson River R. R. Co. *v.* Miller and in other cases it was held that if a statute of a state as construed by its highest court is valid under the federal constitution the United States supreme court is bound by that construction, and that in determining the value of a railway franchise for the purpose of taxation by a state account may be taken of the value of railway cars temporarily absent from the state.—The persons cited by the supreme court to appear and answer charges of contempt based on the lynching at Chattanooga of the negro Edward Johnson in March (see last RECORD, p. 367) presented themselves before the court on October 15. The chief counsel for the defendants contended that the court had exceeded its jurisdiction by granting the negro a stay of sentence. The answer on the part of the department of justice which is prosecuting the case for the United States had not been made at the close of this RECORD.—For other federal decisions see THE TRUST PROBLEM, *infra*.

STATE AND MUNICIPAL AFFAIRS.—Disastrous storms swept the coasts of **Alabama** and **Florida** late in September and again in October. At Mobile alone the September storm is reported to have resulted in the death of more than 100 persons, while the property loss was estimated at many millions. The October storm, which occurred on the 18th, was par-

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ticularly destructive at Elliott's Key, where a wave drowned more than 200 people.—In June the long political deadlock in **Delaware** (see RECORD of June, 1905, p. 366) was at last broken by the defeat of Addicks and the election to the United States Senate of Colonel Henry A. du Pont.—At the instance of the governor and the attorney-general of **Indiana** a raid was made on July 3 upon the notorious French Lick Springs hotel, the property of Thomas Taggart, chairman of the Democratic national committee, and a large quantity of gambling apparatus was seized. Many Democratic newspapers called upon Mr. Taggart to resign his chairmanship, but he refused to do so.—On June 4 Joseph R. Burton, United States senator from **Kansas**, who had previously been convicted of the crime of practicing before a government department while a member of the Senate (see THE FEDERAL JUDICIARY, *supra*) resigned from that body in order to escape expulsion. Governor Hoch offered the vacant seat to F. D. Coburn, secretary of the state board of agriculture, and when he declined it appointed Judge A. W. Benson. All legal resorts having failed, Burton began in October to serve his sentence.—A bill providing for publicity of campaign contributions was signed by Governor Higgins of **New York** on May 21.—John M. Pattison, Democratic governor of **Ohio**, died on June 18, and was succeeded by Lieutenant-Governor Harris, a Republican.—In May forest fires laid waste many hundred square miles of territory in the Upper Peninsula of **Michigan** and destroyed several villages.—In **Oregon** woman suffrage was voted down by 47,075 against 36,902.—In **South Carolina** the questions whether Senator Tillman should be returned to the Senate and whether the state dispensary system should be continued were both answered in the affirmative by the Democratic primaries late in August.—The Senate committee on privileges and elections reported in May by a small majority that Reed Smoot, senator-elect from **Utah** (see RECORD for June, 1904, p. 341), ought not to be allowed to take his seat. On October 1 Joseph F. Smith, the president of the Mormon Church, was arrested and bound over to the district court on a charge of polygamy. The complaint was sworn to by a Mormon deputy sheriff, the warrant was served by order of a Mormon sheriff, and the committing magistrate was also a Mormon.—On July 17 it was held by the **Virginia** corporation court that the Churchman two-cents-a-mile-rate law was in violation of the fourteenth amendment to the federal constitution and was therefore void.—New primary election laws have been adopted in **Wisconsin** and **North Dakota**.—A committee of the National Civic Federation, composed of Profs. Frank J. Goodnow and John R. Commons, Edward W. Bemis, superintendent of the water division of Cleveland, Ohio, and others, made an extended study during the summer of the workings of **municipal ownership** and operation in certain of the cities of Great Britain and Ireland. The League of American Municipalities, at its tenth annual convention at Chicago in September, refused to put itself on record as either for or against municipal ownership.

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THE CAMPAIGN AND THE ELECTIONS.—The political campaign was an unusually quiet one. The Republicans went before the people on the record of the president and of Congress, and national issues were not clearly defined. A feature of the campaign was the entrance into politics of the American Federation of Labor. In the middle of July the executive council of that body issued an address recommending the defeat of persons hostile to organized labor. Especially strong efforts were made by Mr. Gompers, president of the federation, to prevent the reëlection to the House of Mr. Littlefield in Maine and of Speaker Joseph Cannon in Illinois, but his efforts in both cases were without avail.—An episode of interest was a monster reception tendered by Democrats from all over the country on August 30 to Mr. William Jennings Bryan on his arrival at New York from a tour around the world. In a speech at Madison Square Garden Mr. Bryan committed himself to the principle of the government ownership of railroads. His attitude on this subject served once more to alienate certain sections of his party, and enthusiasm for him, which had displayed itself in several states in endorsements of him for the Democratic presidential nomination in 1908, has perceptibly fallen off.—In **Georgia** a contest filled with disgraceful personalities and other undesirable features resulted in the nomination for governor by the Democrats of Hoke Smith, ex-secretary of the interior, over Clark Howell, editor of the Atlanta *Constitution*, and other aspirants, and in the subsequent election of Smith. In **Iowa** Governor Cummins, the Republican champion of tariff revision, was renominated for a third term despite the opposition of Secretary Shaw, but the platform was a temporizing one. In **Oregon** George E. Chamberlain, Democratic governor, was reëlected in June by a small majority, but the Republicans gained both Congressional seats. In **Maine** the September election, which had been preceded by a campaign in which the liquor question was the chief issue, resulted in the election of a Republican governor, but by greatly decreased pluralities. In **Pennsylvania** the reform Republicans took the name of the Lincoln party and nominated Lewis Emery for governor, who was also supported by the Democrats. The regular Republican nominee, Edwin S. Stuart, ex-mayor of Philadelphia, was elected November 6. In **New York** state William Randolph Hearst, the well-known editor and newspaper proprietor, was nominated for governor by the Independence League on a platform advocating government ownership. He was later accepted by the regular Democratic convention. As his opponent the Republicans put forward Mr. Charles E. Hughes, a lawyer who had distinguished himself in the investigation of the life insurance scandals (see last RECORD, p. 364). Many Democrats of prominence and many Democratic newspapers refused to support Mr. Hearst. Mr. Hughes was elected over Mr. Hearst, November 6, by about 60,000 plurality, but as this RECORD closes the Democratic candidates appear to have been elected to the other state offices. —The election on November 6 was on the whole a victory for the Republicans. Their majority of 112 in the House of Representatives was, how-

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ever, reduced by about one-third. Among the doubtful states the Democrats carried **Missouri, New Jersey, North Dakota, Nevada** and **Rhode Island,** and reëlected their candidate for governor in **Minnesota.** Joint-statehood was accepted in **New Mexico** but rejected in **Arizona.** In **Oklahoma** the Democrats were successful and will have the work of framing the new state constitution in their hands. In **New Hampshire** none of the candidates for governor appears to have received a majority; if so, the election will be thrown into the legislature.

THE TRUST PROBLEM.—On May 2 Commissioner Garfield submitted to the president a report of his investigation of the Standard oil company. The report showed that the company has been the recipient of two kinds of favors from transportation companies: first, secret rates lower than the published rates; second, advantages under open rates in the way of quicker service, *etc.*, and in the refusal of railroads to give through rates to other companies. On the 4th the president addressed a lengthy message to Congress setting forth the evils discovered and urging that full power be conferred upon the interstate commerce commission to check the evils described. (For the railroad rate legislation see CONGRESS, *supra.*)—Many prosecutions have been instituted for giving or accepting rebates. On June 12 the Armour, Swift, Cudahy and Nelson Morris packing companies were found guilty of violating the Elkins act and were fined $15,000 each; the Burlington road which granted the rebates was also convicted and fined. Two New York brokers connected with the case were found guilty, and, though the Elkins act provided merely for fines, they were held to be guilty of a conspiracy and, under section 5440 of the Revised Statutes, were sentenced, one to four and the other to three months' imprisonment. Appeal was taken. In a later case against the New York Central railroad and the American sugar refining company Judge Holt held that the contention that the agreement to give a rebate is "a conspiracy punishable with imprisonment while the actual giving of rebates is an offense punishable only by a fine seems to me too subtle a distinction to be drawn in the administration of the criminal law." In July the Alton railroad was fined about $60,000 for rebating; in October the New York Central was convicted of the same offense; and there have been other convictions; while numerous indictments against the Standard oil company, the sugar trust and other defendants are still pending.—The investigation of the affairs of the Pennsylvania railroad company by the interstate commerce commission (see last RECORD, p. 365) revealed the fact that many employees of the road had been recipients of large gifts of stock from coal companies. In return for these gifts the employees were expected to favor the coal companies by furnishing special details of cars and by securing for them more rapid transportation than for those of their competitors. Some of the employees were later dismissed from the service of the road.—A suit brought under the Ohio anti-trust law against the Manhattan oil company, a concern controlled by the Standard oil company, developed the interesting

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fact that the stock of the company was "owned" by a holding company in London called "The General Industrial Development Syndicate, Limited." It appears that this dummy concern was created with the expectation that the ostensible holding of the stock of the company abroad would bury the link connecting the real American owners with the subsidiary company and that the tracing of the stock lodged in London back to the Standard oil company in America would be found to be beyond the jurisdiction of the American courts. The case in question resulted in a verdict of guilty, and a heavy fine was imposed. Appeal was taken.

LABOR AND CAPITAL.—On May 5 a convention of anthracite miners at Scranton, Pennsylvania (see last RECORD, p. 366) decided in favor of returning to work under the terms of the award of the anthracite coal strike commission of 1903. An agreement to last for three years was later entered into between the men and their employers, and a general strike was thereby averted. On June 1 the joint convention of coal miners and operators of Illinois adopted an agreement to hold until March 31, 1908. This formally ended a suspension of work which had kept about 60,000 miners idle for two months. Attempts to operate mines at Steubenville, Ohio, with non-union labor resulted on June 4 in armed clashes between strikers and guards. The sheriff of the county applied to the governor for aid, and two regiments of militia were sent to the seat of trouble, with the result that order was restored.—On July 13, at a conference between President John Mitchell, Secretary Wilson and other representatives of the United Mine Workers and prominent mine operators, it was agreed that the miners in the central Pennsylvania bituminous field should resume work on practically the same basis as that of 1905. The operators gained the principle of the open shop and of arbitration, and maintained their contention regarding the check-weighing system.—Freight handlers on the great lakes struck in the middle of May in order to secure recognition of the Lake Pilots' protective association, an organization composed of mates on freight boats. The Lake Carriers' association refused the demand, and after a few days of idleness the men consented to return to work on last year's basis. The disputed points were held over for later settlement.—In May a strike of union funeral drivers in New York resulted in funeral processions being stopped and mourners and non-union drivers being subjected to violence.—The strike of the structural iron workers (Housesmiths' and Bridgmen's union) in the same city (see last RECORD, p. 366) culminated on July 10 in a murderous attack of thirty union workmen upon special policemen employed in protecting non-union workmen employed on the New Plaza hotel. One of the policemen was mortally wounded and two others were left for dead. The strike was soon after declared off by the union, but the Allied Iron Trades association refused to reëmploy the men until the principle of the open shop was agreed to nationally.—The work of rebuilding San Francisco has been greatly impeded by labor troubles. On August 26 street-car traffic was almost entirely suspended as a result of a strike for higher wages

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and shorter hours.—Labor troubles in the Standard oil company's works at Whiting, Indiana, resulted on September 25 in riots, in which a dozen persons were severely injured.—New child labor laws have been passed by Georgia and by Maryland.—On July 19, at the instance of Secretary Taft, President Roosevelt issued an order for the enforcement of the law of 1892, which provides that, except in cases of emergency, work upon government buildings, ships and other properties shall be limited to eight hours a day for each workman. The law applies to workmen employed by contractors as well as to those employed directly by the government.—During the summer sensational revelations were made concerning the practice of white peonage in Florida lumber camps. The victims were in most cases ignorant foreigners who had been enticed to the South under pretense of favorable terms of employment.

THE RACE PROBLEM AND LYNCHING.—As usual, the past six months have been marked by numerous outbreaks of race hostility and of mob violence. On July 1 six hundred citizens of the northern part of the Chickasaw nation lynched and burned Will Newbright, a negro of San Antonio, accused of attacking the daughter of a farmer. Several United States marshals attempted to take the negro from the mob but were unsuccessful. On August 6 a mob stormed the jail in Salisbury, North Carolina, to obtain possession of five negroes charged with the murder of a white family. The militia fired upon the mob and mortally wounded one man, but the mob obtained possession of the negroes and lynched three of them. Many members of the mob were arrested, and four days later one of the ringleaders, an ex-convict, was tried, convicted and sentenced by Judge Long to fifteen years at hard labor. At Charlotte in the same state four true bills were found on July 16 against participants in the lynching of John V. Johnson at Wadesborough on May 28. At Greenwood, South Carolina, Bob Davis, a negro who had attacked a white girl and later had criminally assaulted a colored girl, was lynched on August 16 by a mob despite an appeal made by Governor Heyward to allow the law to take its course. A week later Willie Spain, a negro accused of having attempted to enter a window of a white man's house, was shot to death by a mob near St. George, Dorchester county, South Carolina. As usual the sheriff failed to protect the prisoner. On the following day the jury in the case of Ross Galbraith, one of the leaders in the lynchings of Springfield, Missouri (see last RECORD, p. 368), failed to agree after twenty-four hours and were discharged. One of the worst outbreaks of recent years occurred in Atlanta, Georgia. On the night of September 22, aroused by a number of assaults or attempted assaults on white women, white mobs, rendered more bitter no doubt by the useless agitation of the race issue injected into the gubernatorial contest between Messrs. Hoke Smith and Clark Howell, began to attack negroes wherever found, including peaceful barbers and negroes riding in street cars. In a few instances the negroes attempted reprisals. Although the militia was called out, the riots continued for three or four

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days, resulting in the death, according to one report, of 18 negroes and one white man. So far as is known, not one of the negroes slain was in any way connected with the offenses which led to the outbreak. Many arrests were made, mostly of negroes. At Mobile, Alabama, on October 2 a special policeman was killed and a member of the city council was wounded by a mob which was endeavoring to break into the jail for the purpose of lynching a negro charged with assault. The negro had previously been removed. Four days later on a train near the same town 200 men took two negroes from Sheriff Powers and his deputies and hanged them. The sheriff and his party were armed with shotguns and revolvers but offered no effectual resistance. Lynchings are also reported from Arkansas, Texas and elsewhere. In October a negro college building in the town of Seneca, South Carolina, was destroyed by dynamite. The negroes retaliated by firing the town.—Several cases of **peonage** have recently come to light. At Staunton, Missouri, on June 13 the United States marshal arrested James E. Smith, a prominent planter, on the charge of holding negroes in bondage and forcing them to work. Smith's son and other persons were arrested later on the same charge. The trials occurred in September at Cape Girardeau, and resulted in the conviction of the accused. Smith himself was sentenced to imprisonment for three and one-half years, and to pay a fine of $5000, his son to two and one-half years and to pay an equal amount, and five guards employed by them were sentenced to terms varying from one to two years.—At Brownsville, Texas, in August the attitude adopted by the whites toward the **colored troops** stationed at Fort Ringgold led to encounters in which one white man was killed and another was wounded. Protests against the presence of the negro troops having been forwarded to him, the president ordered that the troops be transferred and the fort abandoned. As the men refused to disclose the identity of the guilty parties, the president, on November 6, ordered that the whole body of troops concerned be dismissed from the service in disgrace and that the men be debarred forever from reënlistment and from civil positions under the federal government.

III. LATIN AMERICA.

President Palma was peacefully inaugurated for a second time as President of **Cuba** on May 20. In August, however, dissatisfaction on the part of the defeated Liberals and their resentment of illegalities alleged to have been practiced in the elections (see last RECORD, p. 369) resulted in a rebellion. The movement was started in the western part of the island by Quintin Bandera, formerly a noted leader in the wars for independence. The government arrested many Liberal leaders, including José Miguel Gomez, Liberal candidate at the last election for the presidency, on charges of sympathy with the rebellion, and Bandera was defeated and killed on August 23 by a detachment of rural guards. Other risings, however, occurred in other parts of the island under Pino Guerra, an ex-congressman,

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Carlos Mendieta, another ex-congressman, General Guzman and others. On August 22 the rebels captured the town of San Luis, in the province of Pinar del Rio, and the movement spread rapidly. On August 27 amnesty was offered by the government without result, and by the 31st five provinces, including Santiago, were in insurrection; estates belonging to Americans and other foreigners were being plundered, and all efforts at compromise had failed. On September 8, therefore, President Palma, believing himself powerless to quell the rebellion, asked the United States to intervene under the Platt amendment. (For the intervention of the United States and subsequent events, see AMERICAN INTERNATIONAL RELATIONS, *supra*.)—A revolt broke out in **Santo Domingo** in the middle of August. The rebels were driven out of Dajabon, but later they recaptured the place. They then laid siege to Monte Christo. An agreement between the government and the insurgents was reached in October, whereby the insurgents gave up the struggle. Generals Pichard, Pinos and Jiminez were exiled.—In the first days of June what threatened to be an international affair of importance occurred at the mines at Cananea, Sonora, **Mexico**, about 40 or 50 miles from the American border. About 5,000 Mexican miners struck and engaged in riots, which resulted in the death of about 40 persons, six of whom were Americans, and the destruction of a great deal of property, much of which was owned by American capitalists. The situation was complicated by an appeal on the part of Governor Ysabel, of Sonora, for military assistance from the United States; and an armed force of Arizona rangers actually crossed the border. The rioting was ultimately suppressed by the vigorous action of Colonel Kosterlitzky, of the Mexican rural guards. The trouble, according to some, was a result of the activities of a revolutionary junta at St. Louis; according to others, it was merely a result of labor dissatisfaction. In September Gabriel Rubio, colonel of the "First Regiment of the Revolution" and president of the Douglas Liberals, was arrested, with other petty officers, at Douglas, Arizona, and his trunk was found to be filled with revolutionary documents. Other persons charged with inciting rebellion in Mexico were arrested at Nogaly and elsewhere. Later in the month thirty bandits and smugglers took possession of Jiminez, a small town in Mexico, thirty miles from Eagle Pass, but were soon dispersed by Mexican troops. Other ineffective attempts to start a rebellion occurred on the Arizona border in September.—In May a revolt broke out against the government of **Guatamala**. Alleging that **San Salvador** had rendered assistance to the rebels, Guatamala declared war upon that state. After a time **Honduras** became involved in the contest also, but after several battles had been fought the war was brought to a close through the mediation of the United States and Mexico (see INTERNATIONAL RELATIONS, AMERICAN, *supra*).—On September 11 a revolutionary plot against the government was discovered in **San Salvador**, and on the 12th the republic was declared to be in a state of siege. As a presidential election occurs on November 30, presidential ambition appears to

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have been at the bottom of the revolutionary plans, it being asserted that President Escalon was too favorable to the Independent party's candidate. —In May a delegation of Liberals from **Panama** visited the United States for the alleged purpose of securing aid to prevent the party in power from using fraud in the coming elections, but the mission was unsuccessful. In spite of threats of revolution, the elections, partly because of representations made by the United States, passed off in comparative quiet, although some heads were broken. Supporters of the existing government were generally elected. In August a plot to assassinate President Amador was discovered. —On May 17 Acting President Gomez of **Venezuela** appointed a new cabinet. In October General Castro quitted his retirement and once more resumed the presidency (see last RECORD, p. 369).—An unsuccessful attempt to overthrow the Alfaro government was made in **Ecuador** in September.—A rebellion occurred during the summer in the state of Matto Grasso, **Brazil**. Early in July the rebels murdered the governor and occupied the capital. The revolt was suppressed. In August another outbreak occurred at Aracajin, in the state of Sergipe.—On July 25 Pedro Monte, vice-president of **Chile**, was chosen president, to succeed Jermain Riesco. On August 16 the city of Valparaiso and other towns were overwhelmed by an earthquake, which killed several thousand people, rendered many thousands homeless and destroyed about $100,000,000 worth of property. Assistance was rendered from abroad, and the government also appropriated large sums to aid the sufferers.

IV. BRITISH AMERICA AND AUSTRALIA.

Immigration into the **Dominion of Canada** is increasing rapidly, but the undesirable character of some of the immigrants has aroused a feeling in favor of restriction. The finance minister in his budget speech on May 22 announced an excess of receipts over expenditures amounting to $7,860,000 and predicted a still larger surplus for the current year. Early in June the promotion of Mr. Fitzpatrick, minister of justice, to be chief justice of the supreme court necessitated a reorganization of the cabinet. The Dominion parliament, which adjourned in July, authorized the construction of more than 5000 miles of railway in various parts of the Dominion.—The **Alberta** legislature has selected Edmonton as the capital.—The June elections in **Nova Scotia** resulted in a gain of three seats by the Conservatives. —In August an anti-trust bill was passed by the commonwealth parliament of **Australia**. A preference of ten per cent on British goods and a preferential treaty with New Zealand were voted by the federal senate in September. New Zealand, however, later rejected the treaty. In October a preferential treaty with South Africa was also passed.—Early in May Mr. Rason resigned the premiership of **Western Australia** to become agent-general in London. After Mr. Frank Wilson had failed in an attempt to form a new ministry, Mr. Moore succeeded. Dissatisfied with the refusal of the federal government to authorize a survey for a transcontinental rail-

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way, the legislative assembly in this province in September passed, by a vote of 19 to 13, a resolution affirming that the union of the state with the rest of the commonwealth was detrimental to the interests of West Australia and that the time had come for submitting to the people the question of withdrawing from the union. In the following month the legislative council by a vote of 19 to 8 adopted a motion that the state secede from the connection. —In June the ministry of **Tasmania** was reconstituted on a coalition basis. —In **South Australia** a bill was passed in August lowering the property qualification for the franchise from £25 to £15, but the legislative council refused to accept the measure. The ministry resigned and, after ex-Premier Butler had vainly tried to form a new one, the assembly was dissolved.—In **New South Wales** a bill establishing free education in all primary schools was passed in September.—Mr. Seddon, the able and progressive premier of **New Zealand**, died on June 10 while on his way home from a visit to Australia. Mr. Hall-Jones, acting premier, formed a temporary ministry, but was succeeded in August by Sir Joseph Ward, the postmaster-general, who had just returned from a trip abroad. Mr. Hall-Jones remained in the ministry as head of the department of public works and railroads. Among the measures brought forward by the new government was one to compel all owners to sell within ten years the excess of land held beyond £50,000 unimproved value and to prevent owners of 1000 acres of first class land or 5000 acres of second class land from adding to their holdings.

V. EUROPE.

GREAT BRITAIN.—Of the measures before Parliament that which elicited most discussion was the Birrell **education bill** for the exclusion of denominational control of the schools. This measure met with much opposition, particularly from Anglicans and Catholics; many meetings were held and many resolutions were passed against it, and in one demonstration early in June 10,000 clergymen and parishioners appeared in London to protest against its adoption. After long consideration, however, it passed the House of Commons in an amended form just before the recess and went up to the House of Lords, where after the recess serious if not destructive amendment was begun. As it passed the Commons the bill provides that from January 1, 1908, all schools maintained by the local educational authorities must be "provided" schools. The local authorities are to have power to purchase or lease existing schools. Teachers are to be appointed by local authorities without undergoing any religious test, and no public money is to be used in denominational instruction. Religious instruction may, however, be given two mornings a week by others than the teaching staff by arrangement with the school authorities. Attendance at such instruction will not be compulsory. A further grant of £1,000,000 is to be made in support of education. A national educational council is to be provided for Wales, to be under a special minister.—On May 17 the House of Lords threw out a

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bill passed by the Commons prohibiting entrance into the country of aliens to take the places of British workingmen during trades disputes.—Parliament adjourned on August 3 until October 23. Among the measures which went over were a bill introduced by Mr. Bryce, authorizing a loan of £4,500,000 with which to provide cottages for Irish laborers, and a bill dealing with colonial marriages. The former had passed the Commons, and the latter had passed its second reading in that house.—When the autumn session opened, the **woman suffragists**, who have been very active during the past few months, made a demonstration to advance their cause. Some of the women mounted a window sill of the outer lobby of the House of Commons and began haranguing the crowd, but were removed by the police. Eight of the more violent were arrested. The remainder then attempted to hold a meeting on the Thames embankment, but this also was prevented by the police because meetings within one mile of Parliament are illegal. The agitators then adjourned to tea. Some of those arrested were later sentenced to imprisonment.—On July 12 Mr. Haldane, the secretary of war, announced that the government would endeavor to secure a more economical administration of the army, and would reduce the regular force by ten battalions. The proposed reduction aroused great opposition in certain circles.—On August 8 the court of appeal, the master of the rolls, and Lords Justices Moulton and Farwell handed down an important judgment in an appeal of the West Yorkshire county council, the question at issue being whether the local educational authorities are liable to pay the expense of denominational religious instruction in non-provided schools under the educational act of 1902. Their lordships held that the local authorities are not so liable. Appeal was taken to the House of Lords.—On September 3 a congress of 490 delegates representing a million and a half trades unionists met at Liverpool. The congress passed resolutions instructing the Labor members in Parliament to introduce a bill for the nationalization of railroads, canals and mines. A resolution was also carried in favor of an eight-hour day.

FRANCE.—On May day there was some disorder in Paris as a result of labor demonstrations, but the government had taken elaborate precautions to crush out any revolt and hundreds of arrests were made. On the following Sunday the **general election** took place in comparative quiet and resulted in gains for the existing government. The principal significance of the result was the ratification by the people of the separation law (see last RECORD, p. 371).—The deficit for the fiscal year amounted to about 180,000,000 francs, there having been extraordinary expenditures in putting the country in a state of defence during the quarrel with Germany over the Moroccan affair (see last RECORD, p. 353). The cabinet agreed upon an income tax bill to be submitted to the legislature.—This body opened on June 1, and M. Henri Brisson was elected president of the Chamber of Deputies.—In the same month the revision of the **Dreyfus case** (see RECORD for June, 1904, p. 359) was begun in the court of cassation. In the middle of July

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the court held that in view of certain new facts the innocence of Captain Dreyfus was established, quashed the judgment of the Rennes court-martial and decided that no new trial should be ordered. In the Chamber the government introduced bills promoting Dreyfus to be major and Colonel Picquart, his defender, to be brigadier-general, and these bills were passed by overwhelming majorities. A bill for removing Zola's remains to the Pantheon was also adopted. The reopening of the case was attended with a partial renewal of the old bitter feeling, and a number of personal encounters and duels resulted. The outcome, however, was received with satisfaction by the great majority of the French people. On July 21, in the courtyard of the École Militaire, where eleven years before he had been degraded, Major Dreyfus was presented before the troops with the insignia of the Legion of Honor.—Despite the issue of a papal encyclical (see INTERNATIONAL RELATIONS) against the **separation law**, the government persevered in the intention to enforce it. On September 4 the French bishops met in Paris and sent a telegram to the pope thanking him for his directions and expressing the hope that they would be able to find a solution of the difficulty, but later they adjourned without having found one. In a few parishes the priests and people have formed associations in compliance with the law without having received sanction from the bishops.—On October 19 M. Sarrien announced that because of ill health he had decided to retire from the cabinet, and all the other ministers thereupon tendered their resignations. M. Clémenceau, minister of the interior, was then entrusted with the formation of a new ministry, which included General Picquart as minister of war and M. Viviani, the well known Socialist deputy, as minister of labor. The policy of the government will remain practically unchanged.

GERMANY.—On May 15 the **Reichstag** by a vote of 210 to 52 passed the third reading of the bill for the payment of members, but rejected the government's proposal to change article 28 of the German constitution which requires the presence of a quorum of 199 members out of 397 for the validity of all divisions. Later in the month the Reichstag rejected the government's bill for establishing a new secretary of the colonies and refused most of the supplementary credits for South Africa. Early in September, as a result of disclosures of corruption in the colonial department of the foreign office, Prince Hohenlohe-Langenburg, the acting director, resigned, and the emperor created much comment by selecting Herr Bernhard Dernburg, a business man of Jewish descent, to succeed him.—The death on September 13 of Prince Albrecht of Prussia, regent of the duchy of Brunswick since 1885, reopened the question of the Brunswick regency. The **Brunswick** diet declined to proceed with the election of a new regent in the hope that the differences between the imperial government and the duke of Cumberland would be composed and that the duke might succeed to the throne. In October it was announced that the duke had offered to renounce his own claims and those of his eldest son in favor of his youngest

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son but that the emperor and his chancellor had declined to consider the proposal.—A Socialist congress met at Mannheim on September 23, and a few days later Herr Bebel made a speech opposing general strikes as a mode of political agitation. A compromise was later adopted to the effect that the trades unions and the Social Democratic party should endeavor to arrive at an understanding in order to secure unity of action in general strikes and in all other matters of vital moment to both. Herr Bebel opposed a proposition that the party should enter upon a general propaganda against militarism, and pointed out that owing to the situation in Germany a strong military force was vital to her preservation.—Early in October the police at Posen seized 10,000 copies of a fiery proclamation calling upon **Poles** to meet and protest against religious instruction being given in the schools in German. Numerous other manifestations have occurred to show the bitterness stirred up by the government's efforts to Germanize the Poles.

AUSTRIA-HUNGARY.—In **Austria** the Gautsch cabinet, having failed to carry through its universal suffrage bill (see last RECORD, p. 374), resigned early in May. Prince Conrad zu Hohenlohe-Schillingsfürst, governor of Trieste, was entrusted with the formation of a new cabinet. In his first speech in the Reichsrath on May 15 the new premier expressed the hope that franchise reform would put an end to racial strife, and that alongside of its justifiable local patriotism each race would find room for Austrian patriotism. After holding office only a little more than three weeks, however, Prince Hohenlohe resigned because the emperor not only accepted the Hungarian demand that the tariff be voted in Hungary as a distinct Hungarian measure, but also the principle that the future economic relationship between Austria and Hungary be regulated not by a "customs and trade alliance" or economic compact as hitherto, but by a special commercial treaty as devised by Kossuth and the party of independence. Baron Keck, an official in the department of agriculture, was charged with the formation of a new cabinet, and after much difficulty succeeded in constructing a coalition composed of leaders from the German People's party, the German Progressive party, the Polish party and the Young Czech party.—On June 15 a violent demonstration was made by a mob in Vienna against the Hungarian delegation, and the incident, though deplored by the emperor and the Austrian cabinet, served still further to complicate the relations between the discordant parts of the dual monarchy. On September 9, in an interview between Baron von Beck and Dr. Wekerle at Budapest, it was agreed to entrust the solution of the various economic and technical questions to a special commission of Austrian and Hungarian experts.—The **Hungarian** elections early in May resulted in the return to the Chamber of an Independence majority of about 230. The new Chamber held its preliminary sitting in Budapest on May 21, and the new Parliament was formally opened on the 22d by the emperor-king, who referred regretfully to past misunderstandings, and expressed himself in favor of universal suffrage. As yet, however, no such measure has been passed.

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ITALY.—Rather serious strike disorders occurred at Turin, Bologna and Rome early in May, but on the 11th the representative of the Chamber of Labor proclaimed the strike at an end. On May 18 Baron Sonnino's ministry resigned in consequence of an adverse vote on a question of procedure, and Signor Giolitti was entrusted with the task of forming a new ministry, in which he took the department of the interior and Signor Tittoni that of foreign affairs. The new minister announced measures for the relief of the southern provinces and of Sicily and Sardinia, for the organization of the railway service and for the construction of supplementary railroads in Sicily.

RUSSIA.—The resignation of Count Sergius Witte, the premier, was officially announced on May 2. This event was variously explained. According to one version, Count Witte resigned because he failed to persuade the czar to sanction new organic laws which would leave the premier a free hand and would deprive the Duma of any initiative. According to another version, Count Witte, while pursuing a policy of reaction and repression, endeavored to place the responsibility for this unpopular policy on other ministers, and the czar, to whom the count was *persona non grata*, took advantage of the resultant dissensions in the ministry to secure his resignation. It was also stated that Count Witte was kept in office only long enough to float a new loan and was practically dismissed as soon as the loan was secured. He was succeeded by M. Goremykin. On May 8 new organic laws were promulgated which were regarded as inconsistent with the manifesto of October 30 (see last RECORD, p. 375).—The much heralded **Duma** (see last RECORD, p. 377) was opened by the czar in person at the winter palace May 10 in a disappointing speech, in which he said that the members must realize the necessity of order as well as of liberty. Professor Mourontseff, of Moscow, was elected president, and on the following day visited the czar. On the 12th the Duma, which contained a large majority of Constitutional Democrats, made a demonstration in favor of political amnesty. Three days later the address in reply to the speech from the throne was brought in. It urged the necessity of universal suffrage, the abolition of the old forms of government, the desirability of having ministers chosen by the majority, and especially urged that the state of siege imposed upon the country be raised. It then outlined a program of legislation, including devotion of state and monastic lands to the peasantry, and concluded with an appeal for amnesty. The address was adopted without a dissentient vote, but on the 25th the premier read a ministerial declaration rejecting the proposed solution of the agrarian question, ignoring the demand for amnesty and declaring that the matter of ministerial responsibility was outside the Duma's competency. Animated discussions of official abuses, interpellations of ministers regarding executions, resolutions in favor of the abolition of capital punishment, investigations into massacres and other well-meant efforts followed, but little was really accomplished, and it soon became apparent that the autocracy had no intention of conceding real power to the people.—

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Horrible massacres of Jews occurred at Bialystok and elsewhere, there were mutinies in the army, much pillaging was done by the peasants, and the country remained in a condition approaching anarchy.—On July 21, after a ministerial council at Peterhof, the czar, moved partly it seems by the attempt of the Duma to appeal to the people on the agrarian question, issued an imperial ukase dissolving the Duma and ordering the convocation of a new Duma on March 5, 1907. The ukase asserted that the czar had been cruelly disappointed by the conduct of the representatives of the people; that "instead of applying themselves to the work of productive legislation" they had "strayed into spheres beyond their competence" and had "been making inquiries into the acts of local authorities established by ourselves and comments upon the imperfections of the fundamental laws which can be modified only by our imperial will." About the same time the czar relieved Goremykin of the premiership and appointed in his place M. Stolypin, minister of the interior. Many of the ex-members of the Duma left at once for Finland, met at Viborg and issued an address to the Russian people urging them to refuse to pay taxes or to serve in the army until popular representation was restored. The Labor and Social Democratic parties in the dissolved body issued a separate appeal declaring the acts of the government illegal and calling upon the army and navy to stand with the people against tyranny. All the revolutionary bodies combined to issue a manifesto to the peasants calling upon them to remove the local authorities and place all public funds in the hands of legally elected representatives.—On the night of July 30 a mutiny broke out in the great fortress of Sveaborg in Finland, and another about the same time at Kronstadt, but both were ultimately suppressed after much loss of life. Acts of violence occurred in almost all parts of the empire; in one week in August more than fifty officials were assassinated and more than forty wounded; on August 25 a desperate attempt resulting in the death of more than a score of persons was made upon the premier; the hated General Min was slain on the following day by a girl; and new risings of the mujiks and massacres of the Jews took place at Siedlce and elsewhere. Rigorous reactionary measures were taken by the government.—The court martial appointed to fix the responsibility for the surrender of Admiral Rojestvensky acquitted the admiral on the ground that being wounded he was not responsible, but condemned four officers to death, though with a recommendation that the sentence be commuted to dismissal from the service and the loss of certain rights. This recommendation was later acted upon favorably by the czar.—In July and August massacres of Armenians by Tartars were reported from the Caucasus.

MINOR EUROPEAN STATES.—The king of **Spain** and Princess Ena of Battenberg were married on May 31 in Madrid. The royal procession to and from the church of San Jeronimo were received enthusiastically by great crowds, but on the way back to the palace a bomb was thrown at the carriage containing the king and queen. The royal pair were unhurt, but

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23 persons were killed and about 99 were wounded. The assassin, a Barcelona anarchist, on being discovered some days later near the capital killed a police officer and then himself. Early in June Señor Moret tendered his resignation and that of his colleagues to the king, but the king replied that the premier and the Liberal party still retained his confidence and requested Señor Moret to reconstruct the ministry. In July, however, this reconstructed ministry resigned, and Marshal Lopez Dominguez formed a new one composed of members of the Liberal Concentration party. In August a royal decree revised the legal formalities observed in civil marriages and dropped the obligation hitherto imposed upon the parties to declare their religion.—In May the **Portuguese** ministry resigned, in consequence of a disagreement with the king regarding the desirability of an early meeting of the Cortes. It was succeeded by a ministry under the leadership of Senhor Franco. The Cortes was formally opened on June 1. —Elections of half the members of the Chamber in **Belgium** on May 27 resulted in the decrease of the Clerical majority from 20 to 12.—The first **Danish** parliament under the new sovereign (see last RECORD, p. 378) was opened by King Frederick in person on October 1. The elections in the spring left the Christensen ministry in a hopeless minority.—On June 22 King Haakon and Queen Maude of **Norway** (see last RECORD, p. 377) were crowned with much ceremony in the cathedral at Trondhjem. Many European notabilities were present. On the following day the government announced a policy of peace, of frugality, and an intention to endeavor to solve the principal social questions, especially those of insurance of workingmen against illness, old age and the perils of the sea.—In May the first chamber of the **Swedish** Riksdag rejected the government reform bill for an extension of the suffrage (see last RECORD, p. 378) and adopted the opposition amendment for proportional representation. The second chamber, however, passed the bill. As the king refused to dissolve the second chamber and thereby render possible an appeal to the country, the ministry resigned, and a new one was formed by Commodore Lindman, director general of telegraphs. The king called upon the new ministry to bring in a new franchise measure at the next meeting of the Riksdag.—A new **Servian** ministry entered office early in May, with M. Pasitch as premier and foreign minister. Five junior officers who congratulated ex-Captain Novakovitch, editor of the *Ortazbina*, on his campaign against the regicides were in May tried by a court martial and dismissed from the service. The *Ortazbina* was also suppressed. Later in the month King Peter issued an order placing on the retired list with full pay the officers chiefly implicated in the murder of King Alexander.—Early in May Colonel Yankoff, one of the leading Macedonian chiefs, was killed in a skirmish with Turkish troops. Disorders and race conflicts in the **Balkan** region appear to be increasing. —The **Greek** chamber elected in April closed its first session on July 18, after reforming the gendarmerie, voting a series of military laws and sanctioning a system of electric railways for Athens and the Piræus.—Late in

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August it was announced that the protecting powers had agreed upon certain measures for **Crete**, *viz.* to reorganize the gendarmerie, to withdraw the international troops as soon as the Cretan gendarmerie and militia showed themselves competent to preserve order and to extend the control of the international finance committee over the island. Prince George of Greece resigned his position as high commissioner in September and was succeeded by M. Zaimis, ex-premier of Greece. Recent events seem to render the probability of the incorporation of the island with Greece more remote.

AFRICA AND ASIA.

AFRICA.—A recrudescence of fanatical race and religious hostility in **Egypt** resulted on June 13 in an attack at Tanta upon five British officers, with the result that one was killed and others were injured. The danger of further outbreaks with the kindling of a possible "holy war" appeared so great that on July 5 Sir Edward Gray, the British foreign secretary, informed Parliament that extraordinary measures might have to be resorted to.—The revolt of the Pretender in **Morocco** has not yet been suppressed. Early in September insurgents took possession of Mogador, but quitted the city on the 8th. In the middle of October it was reported that a revolt had broken out in the Kehanna district, and that communication between Marakesh, the southern capital, and the coast was cut off. In the same month the town of Arzila was seized by insurgents, who murdered many Jews, but on the 27th it was recaptured by Raisuli, who had been appointed pasha of the town.—In **Natal** the revolt of the Zulus (see last RECORD, p. 379) assumed alarming proportions, but after conflicts in which several thousand of the natives were killed, and in one of which Bambaata, the chief leader, lost his life, the movement was suppressed.—In **Cape Colony** the assembly in August passed an amnesty bill removing all disabilities arising out of participation in the war against Great Britain.—In the **Transvaal** the imperial government's determination to repatriate the Chinese (see last RECORD, p. 380) has continued to excite much opposition among mine workers. The plan for the new Transvaal constitution was announced in the House of Commons by Winston Churchill on July 31. The principle of "one vote one value" is adopted; there is to be no discrimination between Boer and Briton; the assembly is to consist of 69 members, 34 from the Rand, 29 from Pretoria and six from the rest of the country; in the sessions either Dutch or English may be used; during the first parliament there is to be a second chamber of 15 nominated by the crown; and all recruiting of Chinese labor is to cease after November 30.—The uprising in **German Southwest Africa** has not yet been entirely suppressed, although in May, Marengo, the chief leader, fled to Cape Colony.—In **Nigeria** on May 3 a British force captured the king of Hadeija. Severe fighting later took place in southern Nigeria. In September an uprising at Benin resulted in the death of two Europeans and caused the traders to flee from the place.—

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In September a conflict between French troops and Fahavola tribesmen occurred near Majunga, **Madagascar**, and resulted in a defeat for the natives, who lost 360 killed and many wounded.

ASIA.—The revolt in **Yemen** (see last RECORD, p. 378) against Turkish authority still continues. A mutiny of Turkish troops at Sana in June was suppressed only after much bloodshed.—In **Persia** the delay of the shah in ordering elections for the new parliament (see last RECORD, p. 379) caused much disaffection and considerable disorder. The shah ultimately dismissed his reactionary grand vizier, and in September published an ordinance providing that the parliament should contain 156 members, elected biennially, 60 from Teheran and 96 from the rest of the country. Every male Persian between the ages of 30 and 70 who is not in the service of the state, who is able to read and write, and who has never been convicted of crime, is entitled to vote. Inviolability of members is promised.—In August the viceroy of **India** appointed a committee to consider reforms in the administration. It is proposed to extend the representative element in the legislative council.—In **China** the system of sending students abroad for study has been revived by the Viceroy Yuan Shih-kai, and an American, Dr. Tinney, for some time principal of Tien-tsin university, has been appointed supervisor over the students in England and America. In August the dowager empress appointed a committee of officials to consider the reports of the commissions returned from abroad (see last RECORD, p. 379) and to make recommendations with regard to them. On September 1 the emperor issued a decree promising to grant a constitution as soon as the people were ripe for it and intimating a readiness to introduce reforms. A supplementary decree appointed a large number of high officials to deliberate upon and suggest the necessary changes. Later in the month an edict was issued ordering the abolition of the use of opium within ten years. The first section of the railroad from Peking to Kalgan was opened on September 30. The road is being built by Chinese under the direction of a Chinese engineer educated in America. Failure of the Chinese to participate in forming the Southern Manchuria railroad company has resulted in its being exclusively controlled by the Japanese. In August Boxer troubles broke out in Shansi but were suppressed. A severe famine, involving want for many millions of people, exists in Kiang-Su province in Central China.—Late in May a revolt of some dimensions occurred at Hong-ju in **Corea**, but it was soon put down by the Japanese.—The distressing conditions created by the famine in northern **Japan** began to improve in May. The government has reported that of the seventeen railroad companies to be purchased by the government (see last RECORD, p. 379) six would be bought before the end of the year. The purchase will entail an expense of about $123,000,000.

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